The Philippine Problem Presented from a New Angle

The Philippine Problem Presented From a New Angle

With Appendices containing complete texts of the Philippine organic act known as the Jones Law, the Treaty of Paris, the Constitution of the United States and other pertinent matter.

Written by NORBERT LYONS,
editor of the American Chamber of Commerce Journal, from data and research material compiled from authoritative sources by GEORGE H. FAIRCHILD, member of the Board of Directors of the American Chamber of Commerce of the Philippine Islands.

Approved for publication by the Board of Directors of the American Chamber of Commerce of the Philippine Islands.

Second Edition
(Revised and Enlarged)

Manila, Philippine Islands
1924

Board of Directors of the American Chamber of Commerce of the Philippine Islands

HERBERT L. HEATH, PRESIDENT
MANILA REPRESENTATIVE TUBBS CORDAGE COMPANY, PORTLAND CORDAGE COMPANY

JOHN W. HAUSSERMANN VICE-PRESIDENT
VICE PRESIDENT BENGUET CONSOLIDATED MINING COMPANY

GEORGE H. FAIRCHILD
PRESIDENT WELCH-FAIRCHILD, LTD., SUGAR FACTORS AND SHIPPING AGENTS PRESIDENT MINDORO SUGAR COMPANY MANAGING DIRECTOR, HAWAIIAN-PHILIPPINE COMPANY PRESIDENT THE TIMES COMPANY

SAMUEL F. GACHES
PRESIDENT H. E. HEACOCK COMPANY

JULIUS S. REIS
PRESIDENT MANILA TRADING AND SUPPLY COMPANY

B. A. GREEN, TREASURER
GENERAL BROKER AND COMMISSION MERCHANT REAL STATE AND INVESTMENTS PRESIDENT, MABALACAT SUGAR CO PRESIDENT MANILA IMPROVEMENT CO PRESIDENT, ABUCAY PINEAPPLE PLANTATION CO PROPRIETOR, PHILIPPINE FRUIT PACKING COMPANY

C. M. COTTERMAN
PRESIDENT, C. M. COTTERMAN AND COMPANY, INC. PRESIDENT PHILIPPINE ACETYLENE COMPANY EX-PRESIDENT, AMERICAN CHAMBER OF COMMERCE OF THE PHILIPPINE ISLANDS

E. E. ELSER
REAL ESTATE AND INSURANCE

SIMON FELDSTEIN
VICE-PRESIDENT AND GENERAL MANAGER, ERLANGER AND GALINGER, INC

ALTERNATE MEMBERS

P. A. MEYER
PRESIDENT ALHAMBRA CIGAR AND CIGARETTE MANUFACTURING COMPANY, PRESIDENT, KUENZLE AND STREIFF, INC

A. W. BEAM
PRESIDENT AND GENERAL MANAGER, BENGUET CONSOLIDATED MINING COMPANY

J. J. RUSSELL
PRESIDENT, RUSSELL AND COMPANY

M. M. SALEEBY
MANAGER, MANILA BRANCH, HANSON AND ORTH, NEW YORK AND LONDON

The American Chamber of Commerce of the Philippine Islands is a member of the Chamber of Commerce of the United States and is the largest American chamber of commerce outside the continental boundaries of the United States. The organization has 1,200 members, all Americans, resident throughout the Philippine Archipelago. The leading American business firms in the Philippines belong to it as Active members, while the Associate and Affiliate membership includes a large proportion of the permanent American residents of the Philippines.

FOREWORD

The object of this pamphlet is to present to the people of the United States the basic and pertinent facts relative to the Philippine question, which has reached an interesting stage through the impasse between Governor-General Wood and the Philippine Legislature.

The American Chamber of Commerce of the Philippine Islands, the most representative body of Americans in the Archipelago and the largest American chamber of commerce outside of continental United States, has recently passed a resolution advocating Congressional assertion of the establishment of a territorial government for the Philippines under the permanent sovereignty of the United States.

This pronouncement has naturally raised a doubt in the minds of many people as to whether the Americans in the Islands have not been recreant to the "solemn promise" of independence alleged to have been given by the people of the United States. Almost from the moment of American occupation, the people of the United States have been led to believe that such a promise had been given. The statement has been reiterated time without number by both Americans and Filipinos until today it is safe to say that nine out of ten people who have but a surface knowledge of the Philippine question labor under the belief that such a commitment has been actually and authoritatively made.

A careful reading of this pamphlet will show that not only has such a promise not been made by the people of the United States, but also that the Philippines are now actually a territory of the United States and that neither the President of the United States nor Congress has the power to alienate any portion of the public domain over which American sovereignty extends, including the territory known as the Philippine Islands.

SUMMARY OF ARGUMENT CONTAINED IN THIS PAMPHLET

1. Leading authorities quoted in this pamphlet, including Attorney-General of the United States Gregory and Justice Malcolm, a recognized Philippine constitutional authority, agree that the status of the Philippines is that of a Territory. Therefore the present form of Philippine government is a territorial form. That assertion is supported by the organic act or charter of every territory organized by Congress, which differ only in detail.

The American Chamber of Commerce of the Philippine Islands is asking Congress to assert the fact that a form of territorial government has been established in the Philippine Islands and that the form adopted requires some amendments to permit the United States to exercise its sovereignty more effectively than is possible under the Organic Act, known as the Jones Law. The Filipino people should be officially notified that Congress has no power to grant the Independence for which they are constantly appealing.

2. By virtue of the provision of Article VI of the Constitution of the United States, the Treaty of Paris is the supreme law of the land.

3. Sovereignty, while possessing inherent right to acquire territory through Congress, by cession, conquest, purchase, etc., *does not possess inherent right to alienate territory except by direct sanction of the people of the United States as provided in their Constitution.* Corroborated by Article 5 of Constitution.

(a) The Constitution of the United States makes no provision for acquisition of territory. That power is inherent in sovereignty.

(b) Article 4 gives Congress right to "dispose of" territory of the United States, but "dispose of" is not used in the sense of giving away, selling or ceding, but in the sense of making provision for, arranging, distributing. This is corroborated by the language of Treaty of Paris, which in Article 9, makes distinction between "sell" and "dispose of."

(c) The people of the United States can directly exercise their power only through direct plebiscite, not provided for in the Constitution except for presidential electors, or through constitutional amendment.

(d) The only other method by which public domain can be alienated is by force—revolution or war.

4. By the Treaty of Paris, Spain ceded the Philippine Islands to the United States and thereby relinquished her sovereignty over the archipelago. The Islands thereby became the absolute territory of the people of the United States, and subject to the sovereignty of the United States which was as complete over the territory acquired as it was over the territory included in the Louisiana Purchase or any other territory acquired by it. The Treaty, naturally, made no provision concerning the civil rights and political status of the inhabitants. That question was left to be determined by the law-making body of the new sovereignty. Having acquired the territory, Congress was authorized by the provisions of sub-paragraph 3 of Article 4 of the Constitution to provide a government therefor, which it has done by two Acts—first, of July 1, 1902; and second, of August 29, 1916. The first was called a temporary government, while the second is permanent. The said acts or charters of the Philippine government differ from the charters of other territories organized by the Congress of the United States in matters of detail only.

5. The Preamble to the Jones Bill has no legal force, is not binding upon the people, and can only be used for clearing up ambiguous or doubtful passages in the text of the Bill.

6. *The Preamble contains no "solemn promises" of independence, as is claimed by the independence advocates.*

7. President McKinley never made any promise of Philippine independence, nor has Congress ever made such a promise.

8. Utterances of Presidents and statesmen since McKinley's time have on some occasions held out the hope for "ultimate independence," but none of these declarations have been authoritative, nor are they binding upon the people of the United States. Failure of the people to ratify

President Wilson's promises at Versailles is best proof of this contention.

9. The "promise" fiction has been utilized by Filipino leaders to support and bolster their independence propaganda, which of late has assumed a character obnoxious to Americans in the Islands and bordering on sedition and disloyalty. It has also been employed as an argument to justify the creation and continuance of the million peso annual Independence Fund, which makes such undesirable and obnoxious activities possible by encouraging their continuance.

10. Should Congress, on its own responsibility, pass an Act alienating the sovereignty of the United States over the Philippines, it is inconceivable that any President, without respect to his own opinions and affiliations, would accept the responsibility of approving such an act without reference to his legal advisers and particularly to the opinion of the Supreme Court as to his right to sign such an act. The protests of representatives of vested interests in the Islands, on constitutional grounds, and the representations of foreign nations, invoking the rights guaranteed by the Treaty of Paris, would be brought prominently to his attention upon the passing by Congress of such legislation.

WHAT IS THE POLITICAL STATUS OF THE PHILIPPINES?

Most people will be puzzled to answer this question. Before the termination of the Spanish-American war there were but two classes of political divisions under the American Flag: States and Territories. (1) Only these two kinds of political unit were recognized in law. No act of Congress or decision of the Supreme Court since then has laid down a ruling that would preclude the Philippines from being classified as a Territory—it being obvious, of course, that the Islands are not a State. Once a Territory becomes a State, it is an inalienable part of the Union. The Civil War determined that question.

(1) The District of Columbia is a special small sub-division of the public domain provision for which was made in the Constitution for the purpose of setting aside land for a national capital which would not be under the jurisdiction of any single state but would be a purely national possession.

Attorney-General Gregory, in an opinion rendered October 28, 1915, to the Secretary of War stated:

> While, like Porto Rico, the Philippine Islands are not incorporated in the United States, they clearly are territory of the United States, and to the extent that Congress has assumed to legislate for them, they have been granted a form of Territorial government, and to this extent are Territory.

This is the only logical conclusion that can be drawn from the mass of cases bearing on the subject that have been decided by the Supreme Court of the United States.

The Philippines have been called a dependency, a possession, a colony; but these terms are foreign to traditional American concepts of political subdivision and they are also abhorrent to the American concept of autonomous government of such sub-divisions. In this connection it should be noted that no plan of government established or suggested for the Territory of the Philippines has in mind the deprivation or curtailment of local autonomy from the people of the Territory—of course, keeping in mind the fact that the lack of extended experience of the people in self-government and the existence of a large illiterate and in some places semi-civilized population makes the exercise of a certain degree of federal control over local affairs imperative. However, it has always been the policy of the American Government to reduce this control in the degree that the people acquire greater experience and proficiency in democratic self-government, and it is expected that this policy will continue until the minimum, as exercised over full-fledged States of the Union, is reached.

Doubtless when President Wilson and President Harding assured the Filipinos that there would be no "backward step," they had this thought in mind.

There has been considerable argument over whether the Philippines are an organized, unorganized, incorporated or unincorporated territory of the United States; but for the purpose of this discussion we are not concerned with the kind of variety of "territory" the Philippines are. For all practical purposes and the purposes of the law, they are a "territory" in the commonly accepted and broad interpretation of the term, and this was the decision arriv-

ed at by Attorney General Gregory in the opinion above quoted, which continues:

> Though their (referring to the Philippines) form of government is not identical with that of Porto Rico, the reasoning of the opinions in the case *supra* (above) holding that, for certain purpose, Porto Rico is to be deemed a Territory, as that word is used in various Federal Statutes, Section 5546 draws no distinction between an "organized" or "unorganized," "incorporated" or "unincorporated" Territory. Considering the purpose for which it was enacted and the convenience of administration of the prison laws which it was intended to promote, I see no reason why the term "Territory" should not be given a broad construction in order to effectuate the evident ends of the statute. (1)

In a recent decision of the Philippine Supreme Court, Justice Romualdez, a Filipino, ruled that the power to punish crimes may be delegated tacitly "as is the case with the Philippines, which is an organized territory though not incorporated with the Union." Justice Romualdez refers to another distinguished American member of the Philippine Supreme Court, Justice George A. Malcolm, who in his standard work on Philippine Constitutional law, page 192, makes the categorical statement that "the Philippines are an unincorporated territory."

It therefore appears to be an established fact that the Philippines are actually a Territory of the United States in the commonly accepted broad and inclusive meaning of the term. In other words, the land comprising the Islands may justifiedly be classified as belonging to that traditionally accepted and acknowledged group of American political subdivisions of land known as Territories. Hence the Islands are at the present time a Territory, and in fact are functioning under a form of territorial government.

There is nothing in the Constitution of or the laws of the United States which prescribes a set form of government for an organized, incorporated or unincorporated Territory. Since Congress is given the power by the Constitution to institute in the Islands any form of govern-

---

(1) This decision was rendered over the question as to whether or not Bilibid prison in Manila could be designated as a place of confinement for United States prisoners sentenced by the United States Court for China. The Attorney General decided that such designation could take place, as the Philippines are a United States Territory. (P. P. I. v. Gregorio Santiago, Off. Gaz. XX, 141, p. 2669).

ment it desires, it may change the present form at will. The American Chamber of Commerce simply asks Congress to change the present form of government in the Territory of the Philippines to one which will permit the United States to exercise its sovereignty more effectively than is possible under the present Organic Act and to delete the preamble, which purports to commit the people of the United States to a policy which has not been presented to them for decision in the manner provided for in the Constitution.

CAN AMERICAN SOVEREIGNTY, ONCE ESTABLISHED IN THE PHILIPPINES, BE ALIENATED, AND IF SO, HOW?

1. *America's Title to the Philippines.*

Has America a valid title to the Philippines?

Through the Treaty of Paris, the United States acquired an absolute and valid title to the group of Islands known as the Philippines. The title had previously been held and maintained for over three centuries by Spain by right of conquest. Following the Spanish-American War, the Treaty of Paris, ratified by the United States Senate April 11, 1899, and the Spanish Senate July 3, 1899, which ended hostilities, provided in Article III that "Spain cedes to the United States the archipelago known as the Philippine Islands, and comprehending the islands lying within the following lines: (A detailed description of the boundaries follows)." Then comes the following paragraph:

> The United States will pay to Spain the sum of twenty million dollars ($20,000,000) within three months after the exchange of the ratifications of the present treaty.

The sum mentioned was paid, and the Philippines became the indisputable property of the United States.

2. *Did Sovereignty Pass With the Title?*

There can hardly be any doubt over an affirmative answer to this question, but to set all possible doubt aside, we quote from Malcolm's Philippine Constitutional Law, pages 186 and 187:

> The United States as an independent state must be presumed to have retained sovereignty over all places subject to its jurisdiction. In fact the United States Supreme Court has held that during the term of pupilage, territories and dependencies do not constitute a sovereign power. The same court having in mind the title acquired by the Treaty of Paris, has further said that the Philippines "came under the complete and absolute sovereignty and dominion of the United States." Again the court has said that "the jurisdiction and authority of the United States" over the Philippines, "for all legitimate purposes of government, is paramount." And the Congress of the United States, while stating in its Act of August 29, 1916, that it was "desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them," was yet careful to add, "without, in the meantime, impairing the exercise of the rights of sovereignty by the people of the United States."

Particular note should be taken of the fact that the rights of sovereignty are assumed to lie with the *people of the United States* and not with Congress.

Vested interests relied and still rely upon the provisions of the Treaty of Paris and the Constitution to safeguard their investments in the Philippine Islands (see Article five of the Constitution for method of referring to people for action and decision all matters not specifically delegated to Congress).

3. *Treaty is Supreme Law of the Land.*

Paragraph 2, Article VI, of the United States Constitution, reads as follows:

> This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The Treaty of Paris is thus included in the supreme law of the land, and title to the Philippines, passing to the United States through this Treaty, is included in the supreme law of the land.

Moreover, it is clear that the tenure of the Philippines by the United States, as decreed by the Treaty of Paris, is of greater weight than any law passed by Congress, such as the Jones Bill, which is a measure merely sanctioned by the Treaty and is not a specific and integral provision of

the Treaty itself, as is the absolute and permanent passing of title over the Philippines from Spain to the United States.

The above constitutional provision places the Constitution, laws made in pursuance of the Constitution, and Treaties on an equal basis—all three are "supreme law of the land."

DOES SOVEREIGNTY CARRY WITH IT THE RIGHT TO ACQUIRE TERRITORY SUCH AS THE PHILIPPINES?

This question came up at the time the Louisiana Purchase was contemplated. President Thomas Jefferson consulted Albert Gallatin, his Secretary of the Treasury and the ablest statesman in his Cabinet, who replied:

> Does any constitutional objection really exist? To me it would appear: First, that the United States, as a nation, have an inherent right to acquire territory (*but not an inherent right, through Congress, to alienate territory, which can only be done by the people as has already been explained.**) Second, that whenever that acquisition is by treaty, the same constituted authorities in whom the treaty-making power is vested have a constitutional right to sanction the acquisition. Third, that whenever the territory has been acquired, Congress has the power either of admitting it into the Union as a new State, or of annexing it to the State, with the consent of the State, or of making regulations for the government of such territory.

To this Jefferson replied:

> You are right, in my opinion. There is no constitutional difficulty as to the acquisition of territory, and whether, when acquired it may be taken into the Union by the Constitution as it now stands will become a question of expediency. I think it will be safer not to permit the enlargement of the Union but by amendment of the Constitution.

David K. Watson in his great work on the Constitution of the United States, observes:

> This opinion of Gallatin, expressed more than a century ago, which Jefferson yielded to at a later day, and which the courts have sustained, turned the current of our national thought from the narrow to the broad view of constitutional construction on the question of acquiring national territory.

---

* Editor's note.

DOES SOVEREIGNTY CARRY WITH IT THE RIGHT TO ALIENATE AMERICAN TERRITORY?

Jefferson, it will be noted from the quotation cited above, thought that even the acquisition of territory should not be permitted except by constitutional amendment. That rule, however, has not been followed, and rightly so because the acquisition of territory is an inherent right of all governments, it is in the nature of a benefit, an increase in the wealth of the nation, and there appears to be no necessity for its constitutional restriction or approval by the people.

But when it comes to a cession or alienation of the public domain, a taking away of wealth—a deprivation of property—is involved, and it would seem imperative that the sovereign authority, the people, be consulted.

WHAT DOES THE CONSTITUTION SAY REGARDING THE ALIENATION OF THE PUBLIC DOMAIN?

Absolutely nothing, and for a very good reason. The Constitution of the United States only provides for making needful rules and regulations for the government of its territory. The framers of the Constitution never contemplated a cession of any portion of the public domain once it had been acquired. Nor is such an act ever performed by a nation except under exceptionally unusual and unforeseeable circumstances. Particularly was such an act beyond human conception at the time the Union was established, with an unlimited expanse of virgin territory lying to the west, north and south of the original thirteen colonies.

The only provision of the Constitution that might conceivably be interpreted as bearing on the question is paragraph 2, section 3, Article 4, which reads:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular state.

It has been claimed that the word "dispose" should be taken in the sense of "get rid of," "cede" or "sell," but the history of the inclusion of this provision in the Constitution and subsequent judicial interpretation prove conclusively that this was not the intent of the framers of the Constitution with respect to the national territory. (1)

What they meant was that Congress shall have the power to make arrangements for the occupation or other use of the public land in the sense defined by the Standard Dictionary as applicable to one's property, viz: "to have the control, ordering, or disposition of." The primary definition of the word "disposition" as given in the Standard Dictionary is as follows: "The act of arranging, ordering, bestowing or distributing." The Century Dictionary defines the word as follows: "A setting in order; a disposing, placing or arranging; arrangement of parts; distribution."

Had the framers of the Constitution desired that the power implied by the term "dispose of" should mean a cession or an alienation, they certainly would not have employed the conjunction "and" to connect it with the provision giving Congress the power to "make all needful rules and regulations respecting the territory...belonging to the United States." They would have used the conjunction "or," making the clause read: "The Congress shall have power to dispose of *or* make all needful rules and regulations respecting the territory, etc. etc." It is evident that those who framed this clause had in mind the power to "dispose of" and the power to "make all needful rules and regulations respecting the territory, etc." as *separate and distinct* though correlative functions, in the sense that the latter function would naturally come as a consequence of the first. And if that was the case, they certainly had no thought of a disposal of national territory in the sense of ceding it or giving it totally away, or alienating it in any manner.

A striking and corroborative example of this use of the term "dispose" is found in the very Treaty which ceded

(1) See Appendix VII.

the Philippines to the United States. Article 9 of the Treaty of Paris begins as follows:

> Article IX. Spanish subjects, natives of the Peninsula, residing in the territory over which Spain by present treaty relinquishes or cedes her sovereignty, may remain in such territory or may remove therefrom, retaining in either event all their rights of property, including the right to *sell* or *dispose of* such property or of its proceeds; and they shall also have the right to carry on their industry, commerce, and professions, being subject in respect thereof to such laws as are applicable to other foreigners.

It is thus seen that the word "dispose" is used in deliberate juxtaposition to the word "sell" or a meaning in accord with the interpretation set forth in the foregoing paragraphs.

Further corroboration is given this assumption by the fact that the term "territory" as employed in the Constitution did not have reference to a political subdivision of the public domain as it is now understood but referred only to mere lands, mere domain. As Watson sums it up:

> A study of the proceedings of the convention which framed our Constitution will show that forms of territorial government were not recognized by that body. On the subject of territory this clause of the Constitution is all there is in that instrument. It is apparent from the history of the clause that the framers of the Constitution meant to confer upon Congress power over, *mere territory—mere domain*—and that it was not referring to a territory as that word is now understood. This view is supported by the decision of the Supreme Court of the United States in United States v. Gratiot, where the court, in construing this clause, said: "The term territory, as here used, is merely descriptive of one kind of property, and is equivalent to the word lands."

It is clear that the above-cited provision of the Constitution does not give Congress the power to alienate the public domain or any part thereof. The area of the portion of the public domain included in the Philippines is 63,000,000 acres, the title to which is vested by the Treaty of Paris in the people of the United States, not in Congress.(1)

(1) The following opinion on this question has been secured from Justice E. Finley Johnson of the Philippine Supreme Court, who has served on this bench with honor and distinction for nearly a quarter of a century and who would long since have been Chief Justice were it not the policy of the United States to have a Filipino occupy the post. Justice Johnson is one of the most learned and well-informed members of the Philippine bench and has made a thorough study of many of the questions that arise out of the political rela-

IF CONGRESS DOES NOT POSSESS THIS POWER, WHERE IS IT LODGED?

Article X of the Amendments to the Constitution says:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

The alienation of the public domain, especially outside of the boundaries of the Union, is a national question affecting all states alike and therefore any powers connected with this matter must, in accordance with the above provision, lie with the people of the United States, not having been delegated to Congress nor having been prohibited by the Constitution.

Article IX of the Amendments to the Constitution reads:

> The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

By this amendment the framers of the Constitution closed the door against usurpation by Congress of rights reserved to the people.

---

tionship of the American and Filipino peoples. His interpretation of this vital provision of the Constitution in relation to the independence problem, should carry great weight:

Under that provision of Article 4 of the Constitution of the United States, which provides that, "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular state," can the United States sell territory once acquired by purchase, treaty or conquest? That question involves the discussion of the phrase "dispose of." It is contended that said phrase cannot be interpreted alone without taking into account (a) that which follows in the paragraph, and (b) the conditions existing at the time of, and for years before, its adoption (1789), as a part of the Constitution of the United States.

It will be remembered that no English colonies were permanently established on the continent of North America until about 115 years after the discovery of that continent by Christopher Columbus. In 1606 the English Crown began to grant to English companies large tracts of land on the North American continent for the purpose of colonization. The first grants made included all of the lands between certain parallels mentioned, and extended from the Atlantic to the Pacific ocean without further limitation. Later, colonies were organized within said grants, some of which with more or less definite limited territory, while others were formed without any limitation whatever, upon the territory included in the particular colony. That continued until there were thirteen definite and distinct colonies. Nearly 170 years after the organization of the first colony and after a tremendous expense had been incurred by the different colonies and the colonists, the "Declaration of Independence" was adopted. Then for the first time the attention of the colonies and the colonists was directed to the question of paying the expenses of the wars. It was then for the first time discovered that, by reason of the unequal territory of the different colonies, the burden of the expenses of the war would fall more heavily upon some than upon others. The colony of Maryland, then a state, realizing the inequality of the burden upon the different colonies, began an agitation, insisting that all of the lands held by each colony and not occupied by its inhabitants should be ceded to the general government, the Government of the "United States of America," in order that such lands might be "disposed of" by the Central Government for the benefit of all the colonies, then states.

HOW CAN THE PEOPLE EXERCISE THIS POWER?

Either by a plebiscite, or direct vote, for which there is no provision in the Constitution except for the choice of presidential electors, or by the constitutional method of constitutional amendment. This method, as laid down in Article V of the Constitution, is as follows:

> The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to the Constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress, provided that no amendments which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

This then is the only legal, constitutional method the people have for exercising the power of alienating the public domain or the sovereignty of the United States over that public domain, in the absence of any other specific provision in the Constitution to that end.

The agitation of the question of ceding the unoccupied lands of the different colonies to the Central Government continued until finally the colony, then state of Virginia, ceded to the Central Government all of its unoccupied lands. After the cession by Virginia of its unoccupied lands, the other colonies in rapid succession also ceded to the Central Government all of their unoccupied lands. Said cessions were made in accordance with a resolution prepared by Mr. Thomas Jefferson and presented to Congress on the first day of March, 1784, which resolution provided, first, that they (the lands ceded) shall *forever remain a part of the United States of America*, together with other conditions which it is necessary to mention here.

We find in the journals of Congress, Vol. 6, page 123, of the 10th of October, 1780, the following expression of the Congress of the United States of America upon the question of how such ceded territory should be "disposed of." The resolution provides: "That the unappropriated lands that may be ceded or relinquished to the United States, by any particular state, shall be disposed of for the common benefit of the United States, and be settled and formed into *distinct republican states*, etc., and have the same rights of sovereignty, freedom and independence as the other states." In the journals of Congress, volume 6, pages 146, 147, we find a further expression of the Congress of the United States relative to the disposition of the lands ceded to the United States: "That the said lands shall be granted or settled at such times and under such regulations as shall hereafter be agreed upon by the United States in Congress assembled." Immediately after the adoption of said resolution on the part of Congress, the legislatures of the several states passed acts ceding all of their public lands to the general government.

The foregoing shows the theory and purpose under which the different states ceded their public lands to the central or federal government. That was the condition existing at the time the Constitutional Convention met for the purpose of adopting a constitution. During the session of the Constitutional Convention, and with the foregoing declarations of Congress with reference to said ceded public lands, Mr. Gouverneur Morris, who had taken part in all of the discussions theretofore upon that question, presented the following resolution, to be adopted as a part of the Constitution of the United States: "The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution contained shall be so construed as to prejudice any claims either of the United States or of any particular state." (See Journal of Congress, p. 638.)

CAN THE PUBLIC DOMAIN BE ALIENATED IN ANY OTHER WAY?

Yes, by *force majeure,* that is by revolution or by conquest. Any portion of the public domain if it is powerful enough can alienate itself from the mother country, and superior force can compel a portion or the whole of the public domain to pass into the possession of another owner under a new sovereignty. The only legal, constitutional way is by constitutional amendment.

WHAT JURISDICTION HAS CONGRESS OVER THE PHILIPPINES?

By the Treaty of Paris, Article IX, "The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress."

The resolution of Mr. Morris, with the change of only two or three words, was finally adopted by the Constitutional Convention and is the exact language of the Constitution upon that subject, as it stands today. Mr. Madison, who was also a member of the Constitutional Convention, and an eminent authority and, later, President of the United States, commenting upon the resolution of Mr. Morris, said: "The terms in which *this power* is expressed (to dispose of), cannot well be extended beyond a power over the territory, as property, and *a power to make the provisions, ready,* needful or necessary *for the government of the settlers until* ripe for admission as states into the Union."

Mr. Madison, later discussing the purposes included in the resolution of Mr. Morris, said: "Until Congress shall see fit to incorporate such ceded territory into a state, we regard it as settled that the territory is to be given (disposed of) under the power existing in Congress to make laws for such territory." (Madison's Writings, vol. 3, pp. 152, 153.)

The foregoing indicates clearly that Congress was not given the power to sell the ceded territory under the phrase "power to dispose of." That theory is further supported by what immediately followed in said constitutional provision, to wit, "and make all needful rules and regulations respecting the territory." Said quoted provision when we consider the various declarations of Congress, simply means that Congress was authorized "to make all needful rules and regulations respecting the territory" for the disposition of the same in accordance with the theory upon which the government of the United States had acquired the same.

No contention of course is made that Congress may not "make rules and regulations for the disposition of territory acquired," to individuals. The contention is simply, that Congress may not sell such territory, as such, to foreign nations. The contention that territory once acquired cannot be sold, except to individuals under the rules and regulations adopted by Congress, is confirmed:

First, by the resolution quoted above, offered by Mr. Thomas Jefferson, to wit: "that the territory shall forever remain a part of the United States of America;" second, by the interpretation of the Congress of the United States of America for a period covering nearly 150 years; and third, by the Monroe Doctrine, which prohibits, certainly, the acquisition of any portion of the territory of the United States by a foreign potentate or power.

The United States of America, by virtue of its sovereign power, may acquire territory either by purchase, conquest or treaty, and when once acquired, said territory becomes a part of the nation to which it is annexed, and can only be disposed of: (a) by organizing it into a territory under laws prescribed by Congress; (b) by disposing of it to individual citizens; and (c) when conditions justify, by the organization of the same into a state and making it a part of the Union. Any other disposition, by Congress, would be contrary to the intent and purpose of provisions of the Constitution to which these comments apply.

"Territory" acquired by the United States by cession, conquest, or purchase, can only be disposed of by the Congress of the United States by organizing the same into territories or states. This rule does not apply to lands acquired to be used by the Government or any of its departments.

As was pointed out previously, the Jones Law is merely a measure carrying out a provision of the Treaty of Paris, the supreme law of the land, and therefore cannot legally include any provision contrary to a provision of the Treaty itself. By the Treaty of Paris the United States is ceded a clear and absolute title to the Philippines. Nothing in the Jones Law, therefore, can be interpreted as invalidating that title or alienating it. Much less can a mere preamble, having no force or effect, be accorded legal recognition as in any way *per se* limiting or alienating that title. The authors of the preamble to the Jones Law must themselves have realized this constitutional limitation, for in it they include the proviso of "without, in the meantime, impairing the exercise of the rights of sovereignty by the *people* of the United States," thus recognizing the supreme authority of the people of the United States as against the authority of Congress.

This brings us to a more detailed consideration of the famous Preamble to the Jones Bill upon which most of the arguments in favor of the grant of immediate, absolute independence are based.

WHAT IS A PREAMBLE?

A preamble is a preliminary statement placed at the beginning of a law or statute and serving as an explanatory introduction to the instrument proper. Legal and judicial opinion agree that it cannot be considered as an integral part of the statute which it precedes.

Even the Preamble of the Constitution of the United States, is not considered a part of that instrument, according to the best legal opinion, including decisions of the Supreme Court of the United States.

A PREAMBLE HAS NO LEGAL FORCE

Watson in his Constitution of the United States says:

> It is well established that a preamble is not a part of a statute and that it can only be referred to for the purpose of ascertaining the meaning of a statute and aid in a correct interpretation of its provsions, and not for the purpose of enlarging

the powers conferred by it, or for conferring new powers or controlling its language, unless its meaning is doubtful and ambiguous.

This sums up a large number of Supreme Court opinions. However, in view of the common erroneous practice indulged in by those who cite the Jones Bill Preamble, of assuming that the Preamble has some binding obligatory power, it might be well to dwell at some length on this subject.

It is clear from the above authoritative summing up of legal and judicial opinion on the force of a preamble, that the only occasions on which a preamble might legally be employed as the basis for the application of law are when there is some doubt as to the meaning of a clause or a phrase in the body of law itself or when there is an actual ambiguity in clause or phrase. As Judge Story in his well-known work on the Constitution says, "It cannot confer any power *per se* (by itself)."

Obviously, no one is justified either to assume that the Preamble to the Jones Bill is a part of the Bill proper or that its provisions, pronouncements or statements, whatever they may be, have any legal, binding force.

DIFFERENCE BETWEEN PROMISE AND INTENT OR PURPOSE

But aside from this general consideration, the Preamble to the Jones Bill is illegal because the professed intent which it embodies, namely the alienation of American territory, is in direct contravention of the Treaty of Paris, which instrument, by constitutional provision, is the supreme law of the land, under which the Philippines became territory of the United States, the sovereignty of which can not be alienated except through constitutional amendment. In any event, the Preamble to the Jones Bill is not a promise within the strict meaning of the term. It is merely a declaration of intent, though as we have endeavored to prove, made without force of law. It reads as follows:

Whereas it was never the intention of the people of the United States in the incipiency of the War with Spain to make it a war of conquest or for territorial aggrandizement; and

> Whereas it is, as it always has been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine Islands and to recognize their independence as soon as a stable government can be established therein; and
>
> Whereas for the speedy accomplishment of such purpose it is desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without, in the meantime, impairing the exercise of the rights of sovereignty by the people of the United States, in order that, by the use and exercise of popular franchise and governmental powers, they may be better prepared to fully assume the responsibilities and enjoy all the privileges of complete independence...

By what authority the above categorical statements of intent and purpose of the people of the United States were made, we do not know. The people certainly were not consulted directly; nor had Congress the right to make such statements; nor did that body commit the people to an act which would set aside a clear and unequivocal provision of a solemn and duly ratified Treaty, for the Preamble specifically asserts the supremacy of "the rights of sovereignty of the people of the United States." There can be little doubt of the fact that the Preamble commits those who voted in its favor, a majority in that particular Congress, but there certainly is no warrant of law or common sense for anyone to assert that it constitutes a "solemn national promise of independence," as those who speak either without adequate knowledge or with deliberate intent to misrepresent, declare.

In the presidential campaign of 1900 the question of the alienation of the Philippines was the outstanding issue.(1) That was as near to a plebiscite as the question could be brought, although, of course, it was not a constitutional procedure and could not be considered as a true plebiscite on that particular question. Yet the result of the election may be regarded as strongly indicative of how the people felt about the matter. It was a reasonably authoritative expression of their will. The so-called "imperialists," who stood for the permanent retention of the Philippines, triumphed. We might therefore be justified in questioning some of the statements of alleged fact contained in the Preamble.

Analyzed carefully, the Preamble to the Jones Bill is made up of the following parts:

(1) See Appendix IV.

1. A declaration of fact that it was never the intention of the people of the United States to wage the Spanish-American war for conquest or aggrandizement. (Quite true and admitted, but still unauthorized and not a promise).

2. A declaration that it always has been the purpose of the people of the United States to withdraw their sovereignty over the Islands and recognize their independence as soon as a stable government can be established therein. (Gratuitous, unsubstantiated, discredited by the virtual plebiscite of 1900, unauthorized, and not a promise).

3. A declaration that for the speedy accomplishment of the above purpose it is desirable to extend to the Filipinos a larger degree of control of their domestic affairs so that by the exercise of the franchise and governmental powers they may be better prepared for independence, with the proviso that the exercise of the rights of sovereignty by the people of the United States shall not be impaired in the meantime.

The third declaration merely states that it is desirable to extend to the Filipinos greater autonomy in order that they may be the better prepared for independence. This of course carries with it the assumption that independence will sooner or later come, which, however, is justified only if the previous declarations of purpose and intent are valid and if they can be carried out, of which there is no guarantee or assurance. (1)

(1) The McEnery Resolution, passed by the Senate soon after the ratification of the Treaty of Paris, has been cited as a proof that the United States never intended to occupy the Philippines permanently. That resolution, however, has been rejected by the United States Supreme Court as a valid argument for this purpose in the famous Fourteen Diamond Ring case. (U. S. Reports, 183, Oct. term 1901, pp. 176-185.)

On September 25, 1899, Emil J. Pepke, a soldier of the North Dakota Volunteers, returned from the Philippines and brought with him 14 diamond rings which he had obtained in the Islands in some manner, subsequent to the ratification of the Treaty of Paris. In May, 1900, in Chicago, these rings were seized by a customs officer, who claimed they were dutiable. Pepke took the case to court, and finally, the United States Supreme Court, in October, 1901, rendered its decision in favor of Pepke. In the majority opinions, delivered by Chief Justice Fuller and Justice Brown, several points of interest in the present discussion were taken up.

The RESOLUTION of the Senate to which reference is made reads as follows:

> Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That by the ratification of the treaty of peace with Spain it is not intended to incorporate the inhabitants of the Philippine Islands into citizenship of the United States, nor is it intended to permanently annex said islands as an integral part of the territory of the United States; but it is the intention of the United States to establish on said islands a government suitable to the wants and conditions of the inhabitants of said islands to prepare them for local self-government, and in due time to make such disposition of said islands as will best promote the interests of the United States and the inhabitants of said islands. (Cong. Rec. 55th Cong. 3d Sess. vol. 32, p. 1847.)

A man may say to his wife "It is my purpose to give you a $100,000 diamond necklace". The wife, however, has no right to assume this declaration to be a promise, for the obvious reason that she knows that the fulfillment of the purpose depends entirely upon the ability of the prospective donor to "deliver the goods." A mere declaration of purpose always implies some doubt as to the possibility of its fulfillment. A promise, on the other hand, is an absolute assurance given by one party to another that the former will or will not do a specified act. A mere declaration of purpose can by no stretch of the imagination be held binding upon the person making it—it is always subject to subsequent events, contingencies, or even convenience. A man has a moral right to change or abandon his purpose; he has no moral right to disown his promise. Once a promise is made, he who made it is in honor bound to carry it out; but no one can accuse a person of a breach of honor merely because he chooses to alter his purpose with refer-

---

The whole argument of those who fought Pepke hinged on this resolution, because it had already been decided in the case of De Lima vs. Bidwell that goods imported from Porto Rico were not dutiable as coming from a foreign country. This resolution, it was claimed, so modified the Treaty of Paris, as to make the Philippines foreign territory for customs purposes. Chief Justice Fuller, for the majority of the Court, taking up the resolution, ruled:

> We need not consider the force and effect of a resolution of this sort, if adopted by Congress, not like that of April 20, 1898, in respect to Cuba, preliminary to the declaration of war, but after title had passed by ratified cession. It is enough that this was a joint resolution; that it was adopted by the Senate by a vote of 26 to 22, not two-thirds of a quorum; and that it is absolutely without legal significance on the question before us. The meaning of the treaty cannot be controlled by subsequent explanations of some of those who voted to ratify it.

Mr. Justice Brown goes even further than this in his concurring opinion, saying:

> ...I would say that in my view the case would not be essentially different if this resolution had been adopted by a unanimous vote of the Senate. To be efficacious such resolution must be considered either (1) as an amendment to the treaty, or (2) as a legislative act qualifying or modifying the treaty. It is neither.
>
> It cannot be regarded as part of the treaty, since it received neither the approval of the President nor the consent of the other contracting power... The Senate has no right to ratify the treaty and introduce new terms into it, which shall be obligatory upon the other power, although it may refuse its ratification conditional upon the adoption of amendments of the treaty....
>
> The resolution in question was introduced as a joint resolution, but it never received the assent of the House of Representatives or the signature of the President....
>
> In any view taken of this resolution it appears to me that it can be considered only as expressing the individual views of the Senators voting upon it.

Thus it is established, by decision of the United States Supreme Court, that the Mc nery resolution is no more capable of altering the provisions of the Treaty of Paris than is the Jones Bill Preamble; and, if anything, the resolution shows that it never was the intention of the Senate to alienate the Philippine territory but merely "to make such disposition of said islands as will best promote the interests of the United States and the inhabitants of said Islands." The American Chamber of Commerce of the Philippine Islands claims that a territorial government is such a disposition.

ence to any course of action. The carrying out of a purpose is contingent wholly upon the will of the holder of this purpose, but in the case of a promise, the party to whom it was made has a moral and legal right to insist on its execution; in short, there is only one legitimately responsible party in a declaration of purpose while there are two legitimately responsible parties to a promise.

It is obvious from the above analysis of the language of the Jones Bill Preamble that it does not constitute a promise to the Filipino people; in fact it would seem as though its authors deliberately employed the term "purpose" in order not to give occasion for any such interpretation of the Preamble. They had the opportunity to declare that "The people of the United States hereby promise to withdraw their sovereignty over the Philippine Islands and to recognize the independence of the Filipino people as soon as a stable government is established in said Islands" or something to that effect, but they did not do so. They lacked the authority, in the first place, and moreover, they evidently did not want to commit others to actions which might at some future time become impossible, impracticable or inadvisable.

The authors of the Preamble made no promise of any sort, much less a "solemn promise," such as the independence advocates claim has been made. They specifically stated that what they desired to do was to better prepare the people of the Philippines for independence. That is all they could do under the power given them by the Treaty of Paris, namely, the determination of the civil rights and political status of the Philippine natives under the sovereignty of the United States. They had no authority to give away the Islands.

The Preamble to the Jones Bill contains no promise of independence:

1. Because such a promise is not specifically expressed therein.

2. Because Congress has no authority to make such a promise.

OTHER PROMISES

Much is made by the independence advocates of the "promise" contained in the utterances of American Presidents and other statesmen. Perhaps the best way to answer this argument is to quote these declarations in full as we proceed with our comment. They are taken largely from the memorial of the First Independence Commission to the United States asking for immediate independence, and the "Filipinos' Appeal for Freedom," published and distributed by the authority of Congress and at the expense of the United States Government.

President McKinley in his instructions to the First Philippine Commission, January 20, 1899, expressed the hope that these Commissioners would be received as bearers of "the richest blessings of a liberating rather than a conquering nation."

In his message to Congress the same year he said:

> We shall continue, as we have begun, to open the schools and the churches, to set the courts in operation, to foster industry and trade and agriculture, and in every way in our power to make these people whom Providence has brought within our jurisdiction feel that it is their liberty and not our power, their welfare and not our gain, we are seeking to enhance.

This merely explains what the President meant by "liberating." Americans still hold the same ideal—but it is not a promise of independence.

He added:

> The Philippines are ours, not to exploit but to develop, to civilize, to educate, to train in the science of self-government. This is the path of duty which we must follow or be recreant to a mighty trust committed to us.

Upon another occasion he said:

> We accepted the Philippines from a high sense of duty in the interest of their inhabitants, and for humanity and civilization. Our sacrifices were with this high motive. We want to improve the condition of the inhabitants, securing them peace, liberty, and the pursuit of their highest good.

The training of the people in the art of self-government has continued to this day. Self-government, however, does not necessarily mean independence, and particularly alienation of sovereignty. The above utterances cannot be accepted as promises of independence.

In his message to Congress in 1900, McKinley stated:

> The fortune of war has thrown upon this Nation an unsought trust which should be unselfishly discharged, and devolved upon this Government a moral as well as material responsibility toward those millions whom we have freed from an oppressive yoke.
>
> I have on another occasion called the "Filipinos" the wards of the Nation. Our obligation as guardian was not lightly assumed; it must not be otherwise than honestly fulfilled, aiming, first of all, to benefit those who have come under our fostering care. It is our duty so to treat them that our flag may be no less beloved in the mountains of Luzon and the fertile zones of Mindanao and Negros than it is at home; that there, as here, it shall be the revered symbol of liberty, enlightenment, and progress in every avenue of development.
>
> The Filipinos are a race quick to learn and to profit by knowledge.

Here we have, if anything, the expression of hope that the Filipinos will some day be happy and contented under the American flag. Again no promise of independence.

In his instructions to the second Philippine Commission, McKinley observed:

> In all the forms of Government and administrative provisions which they are authorized to prescribe. the commission should bear in mind that the Government which they are establishing is designed not for our satisfaction or for the expression of our theoretical views but for the happiness, peace and prosperity of the people of the Philippine Islands.

Where is there a trace here of a promise of independence?

It is unwritten but authentic history that when the war with Spain broke out, Germany made overtures for the purchase of the Philippines from Spain for $20,000,000, the exact sum paid to Spain by the United States under the Treaty of Paris for the cession of the Archipelago. It is likely that President McKinley, knowing the value and attractiveness of the Archipelago for any first-class power, did not hold forth the hope for ultimate independence to the Filipinos in any of his public utterances for this very reason.

We now come to William Howard Taft, first Civil Governor of the Philippines, who on December 17, 1906, stated:

> The conditions in the islands to-day vindicate and justify that policy. It necessarily involves in its ultimate conclusion as the steps toward self-government become greater and greater the ultimate independence of the islands, although, of course, if both

the United States and the islands were to continue a governmental relation between them like that between England and Australia, there would be nothing inconsistent with the present policy in such a result.

Here a hope is held out for ultimate independence, but at the same time a relationship such as that obtaining between England and Australia is intimated. This is by no means a definite promise of independence. That was the first time, in the year 1906, that the term "ultimate independence" was employed by a responsible American statesman.

We now come to President Roosevelt, who in his message to Congress in 1908 after the inauguration of the Philippine Assembly said that "real progress toward self-government is being made in the Philippine Islands." This expression is quoted by the Independence Mission as one of the independence promises, but self-government does not necessarily mean independence, and no promise is made. Other utterances of Roosevelt on the subject are as follow:

Hitherto this Philippine Legislature has acted with moderation and self-restraint, and has seemed in practical fashion to realize the eternal truth that there must always be government, and that the only way in which any body of individuals can escape the necessity of being governed by outsiders is to show that they are able to restrain themselves, to keep down wrongdoing and disorder. The Filipino people, through their officials, are therefore making real steps in the direction of self-government. I hope and believe that these steps mark the beginning of a course which will continue till the Filipinos become fit to decide for themselves whether they desire to be an independent nation. . . .

But no great civilized power has ever managed with such wisdom and disinterestedness the affairs of a people committed by the accident of war to its hands. Save only our attitude toward Cuba, I question whether there is a brighter page in the annals of international dealings between the strong and the weak than the page which tells of our doings in the Philippines. . . . . .

The islanders have made real advances in a hopeful direction, and they have opened well with the new Philippine Assembly; they have yet a long way to travel before they will be fit for complete self-government, and for deciding, as it will then be their duty to do, whether this self-government shall be accompanied by complete independence.

The first of these utterances holds out the hope that some day the Filipinos will be given a chance of deciding whether or not they want their independence, though it may be regarded as holding out a real hope for it. The second quota-

tion has no prophetic angle to it all, and the third may be classed with the first.

Former Governor-General Smith in the December, 1911, issue of the Sunset Magazine wrote:

> The holding of the Philippines, not for selfish exploitation but as a sacred trust for the benefit of those residing in them, the establishment of a government, not for our satisfaction or for the expression of our theoretical views but for the happiness, peace, and prosperity of the Filipino people, the evolution of a government by Americans assisted by Filipinos, into a government of Filipinos assisted by Americans, and the education and preparation of the people for popular self-government was the broad policy of President McKinley, of President Roosevelt. of Governor-General Taft, of Governor-General Wright, of Governor-General Ide, and of all their successors. It is the policy to-day, and its continuance will, I believe, bring the Filipino race happy and contented to the realization of its hope and ideal, rarely attained, rarely enjoyed, save through blood and tears.

This is not a promise of independence.

President Taft in his message to Congress in December, 1912, asserted:

> We should... endeavor to secure for the Filipinos economic independence and to fit them for complete self-government, with the power to decide eventually, according to their own largest good, whether such self-government shall be accompanied by independence.

Here we have another intimation of an ultimate Filipino plebiscite on the independence question, something which Mr.Roosevelt started. It cannot be denied that it holds out a hope of independence, after economic independence has been achieved, however.

This same idea is contained in Secretary of War Stimon's annual report for 1912 when he remarked:

> The policy of the United States was definitely and materially declared in the instructions of President McKinley to the Philippine Commission of April 7, 1900, and it has never been departed from since. It is contained in every step of the consistent progress of our insular government. President McKinley's statement was expressly and affirmatively confirmed by the Congress of the United States in the organic act for the Philippine Government of July 1, 1902. Briefly, this policy may be expressed as having for its sole object the preparation of the Philippine people for popular self-government in their own interest and in the interest of the Unitd States...
>
> The postponement of the question of independence for the islands has been deliberately made, not for promoting our intrests, but solely in order to enable that momentous question to be determined intelligently by the Philippine people in the light of their own highest interest.

Governor-General Forbes, in his farewell speech on leaving the Islands, referring to the policies of the Republican and Democratic parties declared that "both parties reached the same general conclusion in regard to the granting of independence when a stable government should be established."

With the advent of Governor-General Harrison the independence goal was held out in glowing colors. Thus in his inaugural address, Harrison said that "Every step we take will be taken with a view to the ultimate indepence of the Islands and as a preparation for that independence, and we hope to move toward that end as rapidly as the safety and the permanent interest of the Islands will permit."

President Wilson in his message to Congress in December, 1913, remarked that "we must hold steadily in view their (referring to the Philippines) independence."

It was President Wilson who first made the assumption of "promises" when, in his message to Congress the following year urging the passage of the first Jones Bill, he remarked that "How better could we demonstrate our own self-possession and steadfastness in the course of justice and disinterestedness than by thus going calmly forward to fulfill our *promises* to a dependent people." He used a similar expression in his message of 1915 and, finally, in his final message to Congress in 1920 he urged the grant of complete independence in the following words:

> Allow me to call your attention to the fact that the people of the Philippine Islands have succeeded in maintaining a stable government since the last action of the Congress in their behalf, and have thus fulfilled the condition set by Congress as precedent to a consideration of granting independence to the Islands.
>
> I respectfully submit that this condition precedent having been fulfilled, it is now our liberty and our duty to keep our promise to the people of those Islands by granting them the independence which they so honorably covet.

This recommendation, it might be remarked, was addressed to a Republican Congress by a Democratic President who had been in office two terms and most of that time had with him a majority in the national legislature.

It will be noted that the earlier pronouncements of our Presidents did not contain promises of independence; in

fact the word "independence" was not mentioned by them. It was only after the civil government was firmly established that the "ultimate independence" idea was promulgated by Mr. Taft. Succeeding administrations followed the cue and kept the hope alive, but evidently none of these statesmen stopped to consider the fundamental and constitutional aspects of such pronouncements, for if they had they would have known that neither the Congress nor the President has the constitutional right to grant independence nor the authority to promise independence, that being a right specifically delegated to the people of the United States, as we have already shown.

Presidents have on more than one occasion made promises or commitments that have not been upheld by the people. The most notable example is that of President Wilson when he went to Versailles at the head of the American peace delegation. He vouched for the League of Nations provisions of the Treaty of Versailles and for the consummation of the Franco-British-American alliance, and the people of Europe took his representations at their face value. They did not know, although their governments must have known, that the people of the United States had the final decision of such matters. The people of the United States through the due constitutional procedure, repudiated the promises of the President.

No American individual, even though he be President, has the authority to commit the people of the United States to such an important action as the alienation of a portion of the public domain. That is a power which, as we have shown, rests exclusively with the people of the United States, who may accomplish the act, if they desire to do so, by the constitutionally prescribed process of constitutional amendment.

All promises of independence made by Presidents or other statesmen are therefore not valid, lacking as they do constitutional and legal sanction.

As an instance of how the Filipino political leaders utilize these alleged "promise," there is an article published in Asia for November 1921 entitled "America's Pledge

to the Philippines" by Senate President Manuel L. Quezon. It begins as follows:

> From the beginning of the American occupation, the Filipino people have been assured by the highest representatives of the American nation that the fixed purpose of the United States was the ultimate independence of the Islands. In August, 1916, Congress gave formal statement of that purpose in the Jones Act, which solemnly pledged the faith of the people of the United States to set the people of the Philippine Islands free as soon as they should prove their right to independence by the stablishment of a stable government.

Note the assertion that Congress "solemnly pledged the faith of the people of the United States to set the people of the Philippine Islands free." Congress, as has been pointed out, has no right to pledge the people of the United States to such a step as the alienation of part of their territory.

Further on Mr. Quezon admits that Congress is legally empowered to amend or repeal any law enacted by a previous Congress, but claims that it lacks the moral right to do so when one of its pronouncements affects the "interests of another people." Mr. Quezon, however, forgets that the interests of the American people are even more seriously involved than those of the Filipino people in an unauthorized pledge to give away part of their territory without consulting them.

In conclusion he asserts:

> I do not believe that there will ever be the slightest serious move on the part of the United States toward departure from the plain terms of the Jones Act. I think that the American people will abide by their promise to grant Philippine independence.

Mr. Quezon was right in one respect. There has not been the slightest serious move on the part of the United States toward departure from the plain terms of the Jones Act. It was Mr. Quezon himself and his Filipino followers who attempted to read into the plain terms of the Jones Act a "spiritual" interpretation and take away from the Governor-General the control and responsibility over the executive departments of the government cleary vested to him by the unmistakable language of the Jones Law. And, again, the American people have never promised the grant

of Philippine independence, nor does the Jones Bill Preamble, which has absolutely no binding force, make such a promise.

THE MISCHIEVOUSNESS OF THESE UNAUTHORIZED AND REITERATED PROMISES OF INDEPENDENCE.

While there undoubtedly would have been a constant independence agitation in the Philippines, irrespective of whether or not our leading public men made their unauthorized and misleading statements, without such utterances to fall back upon, this agitation could not have acquired the determined and defiant character it tended to assume.

It is also conceivable that had our national spokesmen remained silent on the question and permitted affairs to take their natural course, or had they given the practical aspects of the question serious consideration and treated the subject on a logical, practical basis in their state papers, the independence agitation would have largely subsided or would have taken a more moderate, more respectful course, and the Legislature would probably not have passed the now famous "Independence Fund" continuing appropriation act.

Fortified by the "promise" argument, some of the political leaders whose political existence is contingent upon the maintenance of an effective appeal for independence to the sentimentalists at home, found in the independence issue an unsurpassable medium for the furtherance of their local political aims. As long as they could maintain with a surface show of reason that the highest officials of the sovereign country sympathized with and encouraged the realization of their chauvinistic aspirations, they felt themselves safe in openly and energetically operating for the withdrawal, if not the overthrow, of the national sovereignty. Thus far they have been able to do this with impunity.

The recent brazen and unjustifiable compaign against Governor General Wood owes its genesis wholly to the state of mind created through these "promises," a state of mind

conducive to disloyalty and sedition, but at the same time immune to prosecution because nominally sanctioned by the utterances of the sovereign nation's foremost leaders and by legislation, not disavowed by Congress, for financing the independence propaganda at the expense of the tax-payers.

Americans in the Philippines believe that the time has arrived for a full exposition of the fundamental facts underlying the present immoderate independence agitation, so that our national activities with reference to the Philippine problem may based on mature considerations and valid legal sanctions.

Only those Americans who have lived in the Philippines while this perfervid and so-called "peaceful" agitation initiated by a numerically small but powerful element of the Filipino people against the continuance of American sovereignty has been going on, particularly in recent months, can have an adequate notion of how this vociferous element has outraged the American sense of fair play and traditional concepts of national loyalty. It has been a veritable emotional martyrdom to which the Americans in the Islands have been subjected, and every time they have made a move to counteract this propaganda or to minimize it, they have been met with the "promises of independence" so thoughtlessly and heedlessly made by our American Presidents and other statesmen.

This pamphlet contains only a brief outline of the fundamental constitutional questions involved in the independence problem, together with an attempt to prove how they have been disregarded or misinterpreted, deliberately or otherwise, with the result that an almost intolerable situation was created for the great majority of the Americans living in the Islands.

It is hoped that those who read this pamphlet, especially if they be national legislators or persons in governmental authority in the United States, will profit by its contents, to the end that they may view the Philippine question in a new and more logical light and thus be instrumental in changing the manner in which our Philippine problem has been handled from Washington in the past quarter century.

It is also hoped that this pamphlet will in some measure enlighten the American public on the grounds upon which the territorial government policy of the American Chamber of Commerce of the Philippine Islands is based.

WHAT WOULD HAPPEN IF CONGRESS, IN DISREGARD OF ALL CONSTITUTIONAL LIMITATIONS, DECREED THE ALIENATION OF THE PHILIPPINE TERRITORY?

In other words, what are you going to do about it if Congress actually passes one or more of the measures granting the Filipinos immediate, absolute independence?

Should Congress, on its own responsibility, enact legislation designed to alienate American sovereignty over the Philippine Islands, the signature of the President would be required. The prima facie illegality and unconstitutionalilty of such congressional action would immediately precipitate protests, based on constitutional grounds, from the representatives of the vested interests in the Islands; also from the representatives of foreign nations, in behalf of their nationals in the Islands, who could invoke the rights guaranteed them by the Treaty of Paris. Such a step, it could also be pointed out, would bring about a grave danger of world-wide international disturbances.

It is inconceivable than any President would dare to assume any such responsibility, with which Congress might confront him, as the alienation of United States sovereignty over territory once acquired by the United States, without consulting his legal advisers, and particularly decisions of the Supreme Court, not only with respect to his own rights in the premises but with regard to those of the Congress as well—for there is no precedent in the history of his high office to guide the President in such a contingency.

It is also inconceivable that any American President, irrespective of his own opinion or affiliations, would want to assume the responsibility of establishing a precedent of hauling down the American Flag over any American territory without the expressed authority of the people of the

United States. Particularly would this seem to be true with reference to the Philippines, where the United States was forced to assume an unsought and inescapable duty, which, after twenty-five years, is far from being honorably discharged.

Such an act would give the enemies of the President—actuated by personal, religious, political or economic motives—an excellent opportunity to denounce him and hold him up to scorn for arbitrarily committing the people of the United States to an illegal and disloyal act, which, chances are, will have precipitated, if not a revolution in the Islands, international disturbances in the Far East of such magnitude as to seriously disturb the condition of peace which might otherwise have been maintained.

There is little doubt but that, in any event, the Supreme Court would have to be called upon to decide whether or not Congress, with or without the President's approval, has the authority to alienate territorial sovereignty.

These considerations and others of a like nature would immediately come into play were Congress ever to attempt the alienation of the Philippine territory, and they would have a strong and almost insurmountable tendency to prevent the final consummation of such an act except by the express will of the American people.

APPENDICES

I. Constitution of the United States.

II. Treaty of Paris.

III. Jones Law [*Philippine Organic Act*].

IV. Editorial Comment from U. S. Papers on Independence "Promise."

V. Monograph on Territorial Expansion of the United States, by Associate Justice E. Finley Johnson, of the Philippine Supreme Court.

VI. President Coolidge's Reply to Petition of Philippine Legislature for Immediate Independence.

VII. Extracts from "The Administration of Depencies," by Alpheus H. Snow, late lecturer on colonial government, George Washington University, and member of the executive committee, American Society on International Law.

APPENDIX I

THE CONSTITUTION OF THE UNITED STATES

Preamble

We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this *Constitution* for the United States of America.

ARTICLE I.

SECTION 1—(Legislature powers; in whom vested.)

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SEC. 2—(House of Representatives, how and by whom chosen. Qualifications of a Representative. Representatives and direct taxes, how apportioned. Enumeration. Vacancies to be filled. Power of choosing officers, and of impeachment.)

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent terms of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Represntative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose 3; Massachusetts, 8; Rhode Island and Providence Plantations, 1; Connecticut, 5; New York, 6; New Jersey, 4; Pennsylvania, 8; Delaware, 1; Maryland, 6; Virginia, 10; North Carolina, 5; South Carolina, 5, and Georgia 3.*

4. When vacancies happen in the representation from any State, the Executive Authority thereof shall issue writs of election to fill such vacancies.

---

*See Article XIV, Amendments.

5. The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

SEC. 3—(Senators, how and by whom chosen. How classified. State Executive, when to make temporary appointments, in case, etc. Qualifications of a Senator. President of the Senate, his right to vote. President pro tem., and other officers of the Senate, how chosen. Power to try impeachments. When President is tried, Chief Justice to preside. Sentence.)

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointment until the next meeting of the Legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

5. The Senate shall choose their other officers, and also a President, pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment of cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

SEC. 4—(Times, etc., of holding elections, how prescribed. One Session in each year.)

1. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to places of choosing Senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SEC. 5.—(Membership. Quorum. Adjournments. Rules. Power to punish or expel. Journal. Time of adjournments, how limited, etc.)

1. Each House shall be the judge of the elections returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as each House may provide.

2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member.

3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SEC. 6—(Compensation. Privileges. Disqualification in certain cases.)

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

SEC. 7—(House to originate all revenue bills. Veto. Bill may be passed by two-thirds of each House, notwithstanding, etc. Bill, not returned in ten days, to become a law. Provisions as to orders, concurrent resolutions, etc.)

1. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments, as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House by which it shall likewise be reconsidered; and if approved by two-thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays

excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return; in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and the House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8—(Powers of Congress.)

1. The Congress shall have power:

To lay and collect taxes, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.

2. To borrow money on the credit of the United States.

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

4. To establish an uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States.

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

6. To provide for the punishment of counterfeiting the securities and current coin of the United States.

7. To establish post-offices and post-roads.

8. To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries.

9. To constitute tribunals inferior to the Supreme Court.

10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations.

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

13. To provide and maintain a navy.

14. To make rules for the government and regulation of the land and naval forces.

15. To provide for calling forth the militia to execute the laws of the Union, supress insurrections, and repel invasion.

16. To provide for organizing, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

17. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of Government of the United States, and to exercise like

authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals. drydocks, and other needful buildings.

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

SEC. 9—(Provision as to migration or importation of certain persons. Habeas Corpus. Bills of attainder, etc. Taxes, how apportioned. No export duty. No commercial preference. Money, how drawn from treasury, etc. No titular nobility. Officers not to receive presents, etc.)

1. The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight. but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or ex post facto law shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any States.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States. And no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state.

SEC. 10—(States prohibited from the exercise of certain powers.)

1. No State shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts, pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any impost or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws, and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SEC. 2—(President; his term of office. Electors of President; number and how appointed. Electors to vote on same day. Qualification of President. On whom his duties devolve in case of his removal, death, etc. President's compensation. His oath of office.)

1. The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress but no Senator or Representative or person holding an office of trust or profit under the United States shall be appointed an elector.

3. The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed, and if there be more than one who have such a majority and have an equal number of votes then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the vote shall be taken by States, the representation from each State having one vote. A quorum, for this purpose, shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.*

4. The Congress may determine the time of choosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any per-

*This clause is superseded by Article XII, Amendments.

son be eligible to that office who shall not have attained to the age of thirty-five years and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

SEC. 2—(President to be Commander-in-Chief. He may require opinions of Cabinet Officers, etc., may pardon. Treaty-making power. Nomination of certain officers. When President may fill vacancies.)

1. The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate and by and with the advice and consent of the Senate shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions, which shall expire at the end of their next session.

SEC. 3—(President shall communicate to Congress. He may convene and adjourn Congress, in case of disagreement, etc., Shall receive ambassadors, execute laws, and commission officers.)

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may,

on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SEC. 4—(All civil offices forfeited for certain crimes.)

The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery or other high crimes and misdemeanors.

ARTICLE III.

SEC. 1—(Judicial powers. Tenure. Compensation.)

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 2—(Judicial power; to what cases it extends. Original jurisdiction of Supreme Court. Appellate. Trial by jury, etc. Trial, where.)

1. The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens, or subjects.

2. In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State the trial shall be at such place or places as the Congress may by law have directed.

SEC. 3—(Treason defined. Proof of. Punishment of.)

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and confort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

ARTICLE IV.

SECTION 1—(Each State to give credit to the public acts, etc., of every other State.)

Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SEC. 2—(Privileges of citizens of each State. Fugitives from justice to be delivered up. Persons held to service having escaped, to be delivered up.)

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3—(Admission of new States. Power of Congress over territory and other property.)

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be construed as to prejudice any claims of the United States, or any particular State.

SEC. 4—(Republican form of government guaranteed. Each State to be protected.)

The United States shall guarantee to every State in this Union a Republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence.

ARTICLE V.

(Constitution; how amended. Proviso.)

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution or, on the

application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the Ninth Section of the First Article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

(Certain debts, etc., declared valid. Supremacy of Constitution, treaties, and laws of the United States. Oath to support Constitution, by whom taken. No religious test.)

1. All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.

2. This Constitution and the laws of the United States which shall be made in the pursuance thereof and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, shall be bound by oath or affirmation to support the Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

(What ratification shall establish Constitution.)

The ratification of the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES

The following amendments to the Constitution, Articles I to X, inclusive, were proposed at the First Session of the First Congress, begun and held at the City of New York, on Wednesday, March 4, 1789, and were adopted by the necessary number of States. The original proposal of the ten amendments was preceded by this preamble and resolution:

"The conventions of a number of the States having, at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added, and as extending the ground of public confidence in the Government will best insure the beneficent ends of its institution:

"*Resolved*, By the Senate and House of Representatives of the United States of America, in congress assembled, two-thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States; all or any of which articles, when ratified by three-fourths of the said Legislatures to be valid to all intents and purposes, as part of the said Constitution, namely:"

THE TEN ORIGINAL AMENDMENTS

(They were declared in force December 15, 1791.)

ARTICLE I.

Religious Establishment Prohibited. Freedom of Speech, of the Press, and Right to Petition.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

ARTICLE II.

Right to Keep and Bear Arms.

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No Soldier to Be Quartered in Any House, Unless, Etc.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

ARTICLE IV.

Right of Search and Seizure Regulated.

The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

Provisions Concerning Prosecution, Trial and Punishment.— Private Property Not to Be Taken for Public Use, Without Compensation.

No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, on in the militia, when in actual service, in time of war or public danger; nor

shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

Right to Speedy Trial, Witnesses, Etc.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which districts shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII.

Right of Trial By Jury.

In suits of common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

ARTICLE VIII.

Excessive Bail or Fines and Cruel Punishments Prohibited.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

ARTICLE IX.

Rule of Construction of Constitution.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

Rights of States Under Constitution.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The following amendment was proposed to the Legislatures of the several States by the Third Congress on the 5th of March, 1794, and was declared to have been ratified in a message from the President to Congress, dated Jan. 8, 1798.

ARTICLE XI.

Judicial Powers Construed.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjetcs of any foreign state.

The following amendment was proposed to the Legislatures of the several States by the Eighth Congress on the 12th of December, 1803, and was declared to have been ratified in a proclamation by the Secretary of State, dated September 25, 1804. It was ratified by all the States except Connecticut, Delaware, Massachusetts, and New Hampshire.

ARTICLE XII.

Manner of Choosing President and Vice-President.

The Electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom at least shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which list they shall sign and certify, and transmit sealed, to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest number, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

The following amendment was proposed to the Legislatures of the several States by the Thirty-eighth Congress on the 1st of February, 1865, and was declared to have been ratified in a proclamation by the Secretary of State, dated December 18, 1865. It was rejected by Delaware and Kentucky; was conditionally ratified by Alabama and Mississippi; and Texas took no action.

ARTICLE XIII.

Slavery Abolished.

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

The following, popularly known as the Reconstruction Amendment, was proposed to the Legislatures of the several States by the Thirty-ninth Congress on the 16th of June, 1866, and was declared to have been ratified in a proclamation by the Secretary of State, dated July 28, 1868. The amendment got the support of 23 Northern States; it was rejected by Delaware, Kentucky, Maryland, and 10 Southern States. California took no action. Subsequently it was ratified by the 10 Southern States.

ARTICLE XIV.

Citizenship Rights Not to Be Abridged.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Apportionment of Representatives in Congress.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male members of such State, being of twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Power of Congress to Remove Disabilities of United States Officials for Rebellion.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as officer of the United States, or as a member of any State Legislature or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

What Public Debts Are Valid.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

The following amendment was proposed to the Legislatures of the several States by the Fortieth Congress on the 27th of February, 1869, and was declared to have been ratified in a proclamation by the Secretary of State, dated March 30, 1870. It was not acted on by Tennessee; it was rejected by California, Delaware, Kentucky, Maryland, and Oregon; ratified by the remaining 30 States. New York rescinded its ratification January 5, 1870. New Jersey rejected it in 1870, but ratified it in 1871.

ARTICLE XV.

Equal Rights for White and Colored Citizens.

1. The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce the provisions of this article by appropriate legislation.

The following amendment was proposed to the Legislatures of the several States by the Sixty-first Congress on the 12th day of July, 1909, and was declared to have been ratified in a proclamation by the Secretary of State, dated February 25, 1913. The income tax amendment was ratified by all the States except Connecticut, Florida, Pennsylvania, Rhode Island, Utah, and Virginia.

ARTICLE XVI.

Income Taxes Authorized.

The Congress shall have power to lay and collect taxes on incomes, from whatever sources derived, without apportionment among the several States, and without regard to any census or enumeration.

The following amendment was proposed to the Legislatures of the several States by the Sixty-second Congress on the 16th day of May. 1912, and was declared to have been ratified in a proclamation by the Secretary of State, dated May 31, 1913. It got the vote of all the States except Alabama, Delaware, Florida. Georgia, Kentucky, Louisiana, Maryland, Mississippi. Rhode Island, South Carolina, Utah, and Virginia.

ARTICLE XVII.

United States Senators to Be Elected by Direct Popular Vote.

1. The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures.

Vacancies in Senatorships, When Governor May Fill by Appointment.

2. When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the Legislature of any State may empower the Executive thereof to make temporary appointment until the people fill the vacancies by election as the Legislature may direct.

3. This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

The following amendment was proposed to the Legislatures of the several States by the Sixty-fifth Congress, December 18, 1917; and on January 2, 1919, the United States Secretary of State proclaimed its adoption by 36 States, and declared it in effect on January 16, 1920.

Early in 1920, the validity of the Eighteenth Amendment was upheld by the Supreme Court of the United States, in suits to void, brought by the States of Rhode Island and New Jersey, and by various brewers and distillers.

ARTICLE XVIII.

Liquor Prohibition Amendment.

1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

The following amendment was proposed to the Legislatures of the several States by the Sixty-fifth Congress, having been adopted by the House of Representatives, May 21, 1919, and by the Senate, June 4, 1919. On August 26, 1920, the United States Secretary of State proclaimed it in effect, having been adopted (June 10, 1919-August 18, 1920), by three-quarters of the States. The Tennessee House, August 31, rescinded its ratification, 47 to 24.

ARTICLE XIX.

Giving Nation-Wide Suffrage to Women.

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

2. Congress shall have power, by appropriate legislation, to enforce the provisions of this Article.

APPENDIX II

THE TREATY OF PARIS

Negotiations begun in Paris, October 1, 1898. Treaty signed in Paris, December 10. Delivered by United States Commissioners to the President, December 24; transmitted to the Senate with the official report of the negotiations, January 4, 1899; ratified by Senate in executive session, February 6, by a vote of 57 against 27. Formal exchange of ratifications at Washington, April 11. Twenty million dollars paid through Jules Cambon, May 1. Treaty ratified by Spanish Senate, July 3, 1899.

The United States of America and Her Majesty, the Queen Regent of Spain, in the name of her august son, Don Alfonso XIII, desiring to end the state of war now existing between the two countries, have for that purpose appointed as plenipotentiaries:

The President of the United States,

William R. Day, Cushman K. Davis, William P. Frye, George Gray, and Whitelaw Reid, citizens of the United States;

And Her Majesty the Queen Regent of Spain,

Don Eugenio Montero Rios, President of the Senate; Don Buenaventura de Abarzuza, Senator of the Kingdom and ex-Minister of the Crown; Don Jose de Garnica, Deputy to the Cortes and Associate Justice of the Supreme Court; Don Wenceslao Ramirez de Villa Urrutia, Envoy Extraordinary and Minister Plenipotentiary at Brussels; and Don Rafael Cerero, General of Division;

Who, having assembled in Paris and having exchanged their full powers, which were found to be in due and proper form, have, after discussion of the matters before them, agreed upon the following articles:

ARTICLE I. Spain relinquishes all claim of sovereignty over and title to Cuba.

And as the island is, upon its evacuation by Spain, to be occupied by the United States, the United States will, so long as such occupation shall last, assume and discharge the obligations that may under international law result from the act of its occupation for the protection of life and property.

ARTICLE II. Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the island of Guam, in the Marianas or Ladrones.

ARTICLE III. Spain cedes to the United States the archipelago known as the Philippine Islands, and comprehending the islands lying within the following lines:

A line running from west to east along or near the twentieth parallel of north latitude, and through the middle of the navigable channel of Bachti, from the one hundred and eighteenth (118th) to the one hundred and twenty-seventh (127th) degree meridian of longitude east of Greenwich, thence along the one hundred and twenty-seventh (127th) degree meridian of longitude east of Greenwich to the parallel of four degrees and forty-five minutes (4°45′) north latitude, thence along the parallel of four degrees and forty-five minutes (4°45′) north latitude to its intersection with the meridian of longitude one hundred and nineteen degrees and thirty-five minutes (119°35′) east of Greenwich, thence along the meridian of longitude one hundred and nineteen degrees and thirty-five minutes (119°35′) east of Greenwich to the parallel of latitude seven degrees and forty minutes (7°40′) north to its intersection with the one hundred and sixteenth (116th) degree meridian of longitude east of Greenwich, thence by a direct line of the intersection of the tenth (10th) degree

parallel of north latitude with the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich, and thence along the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich to the point of beginning.

The United States will pay to Spain the sum of twenty million dollars ($20.000,000) within three months after the exchange of the present treaty.

ARTICLE IV. The United States will for ten years from the date of exchange of ratifications of the present treaty admit Spanish ships and merchandise to the ports of the Philippine Islands on the same terms as ships and merchandise of the United States.

ARTICLE V. The United States will, upon the signature of the present treaty, send back to Spain, at its own cost, the Spanish soldiers taken as prisoners of war on the capture of Manila by the American forces. The arms of the soldiers in question shall be restored to them.

Spain will, upon the exchange of the ratifications of the present treaty, proceed to evacuate the Philippines, as well as the island of Guam, on terms similar to those agreed upon by the Commissioners appointed to arrange for the evacuation of Porto Rico and other islands in the West Indies under the protocol in force till its provisions are completely executed.

The time within which the evacuation of the Philippine Islands and Guam shall be completed shall be fixed by the two Governments. Stands of colors, uncaptured war-vessels, small arms, guns of all calibers, with their carriages and accessories, powder, ammunition, live stock, and materials and supplies of all kinds belonging to the land and naval forces of Spain in the Philippines and Guam remain the property of Spain. Pieces of heavy ordnance, exclusive of field artillery, in the fortifications and coast defenses, shall remain in their emplacements for the term of six months, to be reckoned from the exchange of ratifications of the treaty; and the United States may in the meantime purchase such material from Spain, if a satisfactory agreement between the two Governments on the subject shall be reached.

ARTICLE VI. Spain will, upon the signature of the present treaty, release all prisoners of war and all persons detained or imprisoned for political offenses in connection with the insurrections in Cuba and the Philippines and the war with the United States.

Reciprocally the United States will release all persons made prisoners of war by the American forces, and will undertake to obtain the release of all Spanish prisoners in the hands of the insurgents in Cuba and the Philippines.

The Government of the United States will at its own cost return to the United States, Cuba, Porto Rico, and the Philippines, according to the situation of their respective homes, prisoners released or caused to be released by them, respectively, under this article.

ARTICLE VII. The United States and Spain mutually relinquish all claims for indemnity, national and individual, of every kind, of either Government, or of its citizens or subjects, against the other Government, which may have arisen since the beginning of the late insurrection in Cuba, and prior to the exchange of ratifications of the present treaty, including all claims for indemniy for the cost of the war. The United States will adjudicate and settle the claims of its citizens against Spain relinquished in this article.

ARTICLE VIII. In conformity with the provisions of Articles I, and III of this treaty, Spain relinquishes in Cuba and cedes in Porto

Rico and other islands in the West Indies, in the island of Guam, and in the Philippine Archipelago all the buildings, wharves, barracks, forts, structures, public highways, and other immovable property which in conformity with law belong to the public domain and as such belong to the Crown of Spain.

And it is hereby declared that the relinquishment or cession, as the case may be, to which the preceding paragraph refers, cannot in any respect impair the property or rights which by law belong to the peaceful possession of property of all kinds of provinces, municipalities public or private establishments, ecclesiastical or civic bodies or any other associations having legal capacity to acquire and possess property in the aforesaid territories renounced or ceded, or of private individuals, of whatsoever nationality such individuals may be.

The aforesaid relinquishment or cession, as the case may be, includes all documents exclusively referring to the sovereignty relinquished or ceded that may exist in the archives of the Peninsula. Where any document in such archives only in part relates to said sovereignty a copy of such part will be furnished whenever it shall be requested. Like rules shall be reciprocally observed in favor of Spain in respect of documents in the archives of the islands above referred to.

In the aforesaid relinquishment or cession, as the case may be, are also included such rights as the Crown of Spain and its authorities possess in respect of the official archives and records, executive as well as judicial, in the islands above referred to, which relate to said islands or the rights and property of their inhabitants. Such archives and records shall be carefully preserved, and private persons shall, without distinction, have the right to require, in accordance with the law, authenticated copies of the contracts, wills, and other instruments forming part of notarial protocols or files, or which may be contained in the executive or judicial archives, be the latter in Spain or in the islands aforesaid.

ARTICLE IX. Spanish subjects, natives of the Peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty, may remain in such territory or may remove therefrom, retaining in either event all their rights of property, *including the right to sell* or *dispose* of such property or of its proceeds; and they shall also have the right to carry on their industry, commerce, and profession, being subject in respect thereof to such laws as are applicable to other foreigners. In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making, before a court of record, within a year from the date of the exchange of ratifications of this treaty, a declaration of their decision to preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which they may reside.

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

ARTICLE X. The inhabitants of the territories over which Spain relinquishes or cedes her sovereignty shall be secured in the free exercise of their religion.

ARTICLE XI. The Spaniards residing in the territories over which Spain by this treaty cedes or relinquishes her sovereignty shall

be subject in matters civil as well as criminal to the jurisdiction of the courts of the country wherein they reside, pursuant to the ordinary laws governing the same; and they shall have the right to appear before such courts and to pursue the same course as citizens of the country to which the courts belong.

Article XII. Judicial proceeding pending at the time of the exchange of ratifications of this treaty in the territories over which Spain relinquishes or cedes her sovereignty shall be determined according to the following rules:

First. Judgments rendered either in civil suits between private individuals or in criminal matters, before the date mentioned, and with respect to which there is no recourse or right of review under the Spanish law, shall be deemed to be final, and shall be executed in due form by competent authority in the territory within which such judgments should be carried out.

Second. Civil suits between private individuals which may on the date mentioned be undetermined shall be prosecuted to judgment before the court in which they may then be pending, or in the court that may be substituted therefor.

Third. Criminal actions pending on the date mentioned before the Supreme Court of Spain against citizens of the territory which by this treaty ceases to be Spanish shall continue under its jurisdiction until final judgment; but such judgment having been rendered, the execution thereof shall be committed to the competent authority of the place in which the case arose.

ARTICLE XIII. The rights of property secured by copyrights and patents acquired by Spaniards in the island of Cuba, and in Porto Rico, the Philippines, and other ceded territories, at the time of the exchange of the ratifications of this treaty, shall continue to be respected. Spanish scientific, literay, and artistic works not subversive of public order in the territories in question shall continue to be admitted free of duty into such territories for the period of ten years, to be reckoned from the date of the exchange of the ratifications of this treaty.

ARTICLE XIV. Spain shall have the power to establish consular officers in the ports and places of the territories the sovereignty over which has either been relinquished or ceded by the present treaty.

ARTICLE XV. The Government of each country will, for the term of ten years, accord to the merchant-vessels of the other country the same treatment in respect to all port charges, including entrance and clearance dues, light dues and tonnage duties, as it accords to its own merchant-vessels not engaged in the coastwise trade.

This article may at any time be terminated on six months' notice given by either Government to the other.

ARTICLE XVI. It is understood that any obligations assumed in this treaty by the United States with respect to Cuba are limited to the time of its occupancy thereof; but it will, upon the termination of such occupancy, advise any Government established in the island to assume the same obligations.

ARTICLE XVII. The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Majesty, the Queen Regent of Spain; and the ratifications shall be exchanged at Washington within six months from the date hereof, or earlier if possible.

In faith whereof we, the respective plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate at Paris, the tenth day of December, in the year of our Lord one thousand eight hundred and ninety-eight.

(Seal) WILLIAM R. DAY
(Seal) CUSHMAN K. DAVIS
(Seal) WILLIAM P. FRYE.
(Seal) GEORGE GRAY.
(Seal) WHITELAW REID.
(Seal) EUGENIO MONTERO RIOS.
(Seal) B. DE ABARZUZA.
(Seal) W. R. DE VILLAR URRUTIA.
(Seal) RAFAEL CERRERO.

APPENDIX III

THE JONES BILL

An Act to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands.

Whereas it was never the intention of the people of the United States in the incipiency of the War with Spain to make it a war of conquest or for territorial aggrandizement; and

Whereas it is, as it has always been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine Islands and to recognize their independence as soon as a stable government can be established therein; and

Whereas for the speedy accomplishment of such purpose it is desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without, in the meantime, impairing the exercise of the rights of sovereignty by the people of the United States, in order that, by the use and exercise of popular franchise and governmental powers, they may be the better prepared to fully assume the responsibilities and enjoy all the privileges of complete independence: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this Act and the name "The Philippines" as used in this Act shall apply to and include the Philippine Islands ceded to the United States Government by the treaty of peace concluded between the United States and Spain on the eleventh day of April, eighteen hundred and ninety-nine, the boundaries of which are set forth in Article III of said treaty, together with those islands embraced in the treaty between Spain and the United States concluded at Washington on the seventh day of November, nineteen hundred.

SEC. 2. That all inhabitants of the Philippine Islands who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain, signed at Paris December tenth, eighteen hundred and ninety-eight, and except such others as have since become citizens of some other country: *Provided,* That the Philippine Legislature, herein provided for, is hereby authorized to provide by law for the acquisition of Philippine citizenship by those natives of the Philppine Islands who do not come wthin the foregoing provisions, the natives of the insular possessions of the United States, and such other persons residing in the Philippine Islands who are citizens of the United States, or who could become citizens of the United States under the laws of the United States if residing therein.

SEC. 3. That no law shall be enacted in said islands which shall deprive any person of life, liberty, or property without due process of law, or deny to any person therein the equal protection of the laws. Private property shall not be taken for public use without just compensation.

That in all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel, to demand the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to compel the attendance of witnesses in his behalf.

That no person shall be held to answer for a criminal offense without due process of law; and no person for the same offense shall be twice put in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself.

That all persons shall before conviction be bailable by sufficient sureties, except for capital offenses.

That no law impairing the obligation of contracts shall be enacted.

That no person shall be imprisoned for debt.

That the privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion, insurrection, or invasion the public safety may require it, in either of which events the same may be suspended by the President, or by the Governor General, wherever during such period the necessity for such suspension shall exist.

That no ex post facto law or bill of attainder shall be enacted nor shall the law of primogeniture ever be in force in the Philippines.

That no law granting a title of nobility shall be enacted, and no person holding any office of profit or trust in said islands shall, without the consent of the Congress of the United States, accept any present, emolument, office, or title of any kind whatever from any king, queen, prince, or foreign State.

That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

That the right to be secure against unreasonable searches and seizures shall not be violated.

That slavery shall not exist in said islands; nor shall involuntary servitude exist therein except as a punishment for crime whereof the party shall have been duly convicted.

That no law shall be passed abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances.

That no law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship, without discrmnation cr preference, shall forever be allowed; and no religious test shall be required for the exercise of civil or political rights. No public mony or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary as such. Contracting of polygamous or plural marriages hereafter is prohibited. That no law shall be construed to permit polygamous or plural marriages.

That no money shall be paid out of the treasury except in pursuance of an appropriation by law.

That the rule of taxation in said islands shall be uniform.

That no bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill.

That no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

That all money collected on any tax levied or assessed for a special purpose shall be treated as a special fund in the treasury and paid out for such purpose only.

SEC. 4. That all expenses that may be incurred on account of the Government of the Philippines for salaries of officials and the conduct of their offices and departments, and all expenses and obligations contracted for the internal improvement or development of the islands, not, however, including defenses, barracks, and other works undertaken by the United States, shall, except as otherwise specifically provided by the Congress, be paid by the Government of the Philippines.

SEC. 5. That the statutory laws of the United States hereafter enacted shall not apply to the Philippine Islands, except when they specifically so provide, or it is so provided in this Act.

SEC. 6. That the laws now in force in the Philippines shall continue in force and effect, except as altered, amended, or modified herein, until altered, amended, or modified herein, until altered, amended, or repealed by the legislative authority herein provided or by Act of Congress of the United States.

SEC. 7. That the legislative authority herein provided shall have power, when not inconsistent with this Act, by due enactment to amend, alter, modify, or repeal any law, civil or criminal, continued in force by this Act as it may from time to time see fit.

This power shall specifically extend with the limitation herein provided as to the tariff to all laws relating to revenue and taxation in effect in the Philippines.

SEC. 8. That general legislative power, except as otherwise herein provided, is hereby granted to the Philippine Legislature, authorized by this Act.

SEC. 9. That all the property and rights which may have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain, signed December tenth, eighteen hundred and ninety-eight, except such land or other property as has been or shall be designated by the President of the United States for military and other reservations of the Government of the United States, and all lands which may have been subsequently acquired by the government of the Philippine Islands by purchase under the provisions of sections sixty-three and sixty-four of the Act of Congress approved July first, nineteen hundred and two, except such as may have heretofore been sold and disposed of in accordance with the provisions of said Act of Congress, are hereby placed under the control of the government of said lands to be administered or disposed of for the benefit of the inhabitants thereof, and the Philippine Legislature shall have power to legislate with respect to all such matters as it may deem advisable: but acts of the Philippine Legislature with reference to land of the public domain, timber, and mining, hereafter enacted, shall not have the force of law until approved by the President of the United States: *Provided*, That upon the approval of such an act by the Governor General, it shall be by him forthwith transmitted to the President of the United States, and he shall approve or disapprove the same within six months from and after its enactment and submission for his approval, and if not disapproved within such time it shall become a law the same as if it had been specifically approved: *Provided further*, That where lands in the Philippine Islands have been or may be reserved for any public purpose of the United States, and, being no longer required for the

purpose for which reserved, have been or may be, by order of the President, placed under the control of the government of said islands to be administered for the benefit of the inhabitants thereof, the order of the President shall be regarded as effectual to give the government of said islands full control and power to administer and dispose of such lands for the benefit of the inhabitants of said islands.

SEC. 10. That while this Act provides that the Philippine government shall have the authority to enact a tariff law, the trade relations between the islands and the United States shall continue to be governed exclusively by laws of the Congress of the United States: *Provided*, That tariff acts or acts amendatory to the tariff of the Philippine Islands shall not become law until they shall receive the approval of the President of the United States, nor shall any act of the Philippine Legislature affecting immigration or the currency or coinage laws of the Philippines become a law until it has been approved by the President of the United States: *Provided further*, That the President shall approve or disapprove any act mentioned in the foregoing proviso within six months from and after its enactment and submission for his approval, and if not disapproved within such time it shall become a law the same as if it had been specifically approved.

SEC. 11. That no export duties shall be levied or collected on exports from the Philippine Islands, but takes and assessments on property and license fees for franchises, and privileges, and internal taxes, direct or indirect, may be imposed for the purposes of the Philippine government and the provincial and municipal governments thereof, respectively, as may be provided and defined by acts of the Philippine Legislature, and, where necessary to anticipate taxes and revenues, bonds and other obligations may be issued by the Philippine government or any provincial or municipal government therein, as may be provided by law and to protect the public credit: *Provided, however*, That the entire indebtedness of the Philippine government created by the authority conferred herein shall not exceed at any one time the sum of $15,000,000, exclusive of those obligations known as friar land bonds, nor that of any Province or municipality a sum in excess of seven per centum of the aggregate tax valuation of its property at any one time.

SEC. 12. That general legislative powers in the Philippines, except as herein otherwise provided, shall be vested in a legislature which shall consist of two houses, one the senate and the other the house of representatives, and the two houses shall be designated "The Philippine Legislature:" *Provided*, That until the Philippine Legislature as herein provided shall have been organized, the existing Philippine Legislature shall have all legislative authority herein granted to the government of the Philippine Islands, except such as may now be within the exclusive jurisdiction of the Philippine Commission, which is so continued until the organization of the legislature herein provided for the Philippines. When the Philippine Legislature shall have been organized, the exclusive legislative jurisdiction and authority exercised by the Philippine Commission shall thereafter be exercised by the Philippine Legislature.

SEC. 13. That the members of the senate of the Philippines, except as herein provided, shall be elected for terms of six and three years, as hereinafter provided, by the qualified electors of the Philippines. Each of the senatorial districts defined as hereinafter provided shall have the right to elect two senators. No person shall be an elective member of the senate of the Philippines who is not

a qualified elector and over thirty years of age, and who is not able to read and write either the Spanish or English language, and who has not been a resident of the Philippines for at least two consecutive years and an actual resident of the senatorial district from which chosen for a period of at least one year immediately prior to his election.

SEC. 14. That the members of the house of representatives shall except as herein provided, be elected triennially by the qualified electors of the Philippines. Each of the representative districts hereinafter provided for shall have the right to elect one representative. No person shall be an elective member of the house of representatives who is not a qualified elector and over twenty-five years of age, and who is not able to read and write either the Spanish or English language, and who has not been an actual resident of the district from which elected for at least one year immediately prior to his election: *Provided*, That the members of the present assembly elected on the first Tuesday in June, nineteen hundred and sixteen, shall be the members of the house of representatives from their respective districts for the term expiring in nineteen hundred and nineteen.

SEC. 15. That at the first election held pursuant to this act, the qualified electors shall be those having the qualifications of voters under the present law; thereafter and until otherwise provided by the Philippine Legislature herein provided for the qualifications of voters for senators and representatives in the Philippines and all officers elected by the people shall be as follows:

Every male person who is not a citizen or subject of a foreign power twenty-one years of age of over (except insane and feeble-minded persons and those convicted in a court of competent jurisdiction of an infamous offense since the thirteenth day of August, eighteen hudred and ninety-eight), who shall have been a resident of the Philippines for one year and of the municipality in which he shall offer to vote for six months next preceding the day of voting, and who is comprised within one of the following classes:

(*a*) Those who under existing law are legal voters and have exercised the right of suffrage.

(*b*) Those who own real property to the value of 500 pesos, or who annually pay 30 pesos or more of the established taxes.

(*c*) Those who are able to read and write either Spanish, English, or a native language.

SEC. 16. That the Philippine Islands shall be divided into twelve senate districts, as follows:

First district: Batanes, Cagayan, Isabela, Ilocos Norte, and Ilocos Sur.

Second district: La Union, Pangasinan, and Zambales.

Third district: Tarlac, Nueva Ecija, Pampanga, and Bulacan.

Fourth district: Bataan, Rizal, Manila, and Laguna.

Fifth district: Batangas, Mindoro, Tayabas, and Cavite.

Sixth district: Sorsogon, Albay, and Ambos Camarines.

Seventh district: Iloilo and Capiz.

Eighth district: Negros Occidental, Negros Oriental, Antique, and Palawan.

Ninth district: Leyte and Samar.

Tenth district: Cebu.

Eleventh district: Surigao, Misamis, and Bohol.

Twelfth district: The Mountain Province, Baguio, Nueva Vizcaya, and the Department of Mindanao and Sulu.

The representative districts shall be the eighty-one now provided by law, and three in the Mountain Province, one in Nueva Vizcaya, and five in the Department of Mindanao and Sulu.

The first election under the provisions of this Act shall be held on the first Tuesday of October, nineteen hundred and sixteen, unless the Governor General in his discretion shall fix another date not earlier than thirty nor later than sixty days after the passage of this Act: *Provided*, That the Governor General's proclamation shall be published at least thirty days prior to the date fixed for the election, and there shall be chosen at such election one senator from each senate district for a term of three years and one for six years. Thereafter one senator from each district shall be elected from each senate district for a term of six years: *Provided*, That the Governor General of the Philippine Islands shall appoint. without the consent of the senate and without restriction as to residence, senators and representatives who will, in his opinion, best represent the senate district and those representative districts which may be included in the territory not now represented in the Philippine Assembly: *Provided further*, That thereafter elections shall be held only on such days and under such regulations as to ballots, voting, and qualifications of electors as may be prescribed by the Philippine Legislature, to which is hereby given authority to redistrict the Philippine Islands and modify, amend, or repeal any provision of this section, except such as refer to appointive senators and representatives.

SEC. 17. That the terms of office of elective senators and representatives shall be six and three years, respectively, and shall begin on the date of their election. In case of vacancy among the elective members of the senate or in the house of representatives, special elections may be held in the districts wherein such vacancy occurred under such regulations as may be prescribed by law, but senators or representatives elected in such cases shall hold office only for the unexpired portion of the term wherein the vacancy occurred. Senators and representatives appointed by the Governor Geneal shall hold office until emoved by the Governor General.

SEC. 18. That the senate and house of representatives, respectively, shall be the sole judges of the elections, returns, and qualifications of their elective members, and each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel an elective member. Both houses shall convene at the capital on the sixteenth day of October next following the election and organize by the election of a speaker or a presiding officer, a clerk, and a sergeant at arms for each house, and such other officers and assistants as may be required. A majority of each house shall constitute a quorum to do business, but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. The legislature shall hold annual sessions, commencing on the sixteenth day of October, or, if the sixteenth day of October be a legal holiday, then on the first day following which is not a legal holiday, in each year. The legislature may be called in special session at any time by the Governor General for general legislation, or for action on such specific subiects as he may designate. No special session shall continue longer than thirty days, and no regular session shall continue longer than one hundred days, exclusive of Sundays. The legislature is hereby given the power and authority to change the date of the commencement of its annual sessions.

The senators and representatives shall receive an annual compensation for their services, to be ascertained by law, and paid out

of the treasury of the Philippine Islands. The senators and representatives shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

No senator or representative shall, during the time for which he may have been elected, be eligible to any office the election to which is vested in the legislature, nor shall be appointed to any office of trust or profit which shall have been created or the emoluments of which shall have been increased during such term.

SEC. 19. That each house of the legislature shall keep a journal of its proceedings and, from time to time, publish the same; and the yeas and nays of the members of either house, on any question, shall, upon demand of one-fifth of those present, be entered on the journal, and every bill and joint resolution which shall have passed both houses shall, before it becomes a law, be presented to the Governor General. If he approve the same, he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated, which shall enter the objections at large on its journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected to that house shall agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house it shall be sent to the Governor General, who, in case he shall then not approve, shall transmit the same to the President of the United States. The vote of each house shall be by the yeas and nays, and the names of the members voting for and against shall be entered on the journal. If the President of the United States approve the same, he shall sign it and it shall become a law. If he shall not approve same, he shall return it to the Governor General, so stating, and it shall not become a law: *Provided*, That if any bill or joint resolution shall not be returned by the Governor General as herein provided within twenty days (Sundays excepted) after it shall have been presented to him the same shall become a law in like manner as if he had signed it, unless the legislature by adjournment prevent its return, in which case it shall become a law unless vetoed by the Governor General within thirty days after adjournment: *Provided further*, That the President of the United States shall approve or disapprove an act submitted to him under the provisions of this section within six months from and after its enactment and submission for his approval; and if not approved within such time, it shall become a law the same as if it had been specifically approved. The Governor General shall have the power to veto any particular item or items of an appropriation bill, but the veto shall not affect the item or items to which he does not object. The item or items objected to shall not take effect except in the manner heretofore provided in this section as to bills and joint resolutions returned to the legislature without his approval.

All laws enacted by the Philippine Legislature shall be reported to the Congress of the United States. which hereby reserves the power and authority to annul the same. If at the termination of any fiscal year the appropriations necessary for the support of government for the ensuing fiscal year shall not have been made, the several sums appropriated in the last appropriation bills for the objects and purposes therein specified, so far as the same may be done, shall be deemed to be reappropriated for the several objects and purposes

specified in said last appropriation bill; and until the legislature shall act in such behalf the treasurer shall, when so directed by the Governor General, make the payments necessary for the purposes aforesaid.

SEC. 20. That at the first meeting of the Philippine Legislature created by this Act and trienially thereafter there shall be chosen by the legislature two Resident Commissioners to the United States, who shall hold their office for a term of three years beginning with the fourth day of March following their election, and who shall be entitled to an official recognition as such by all departments upon presentation to the President of a certificate of election by the Governor General of said islands. Each of said Resident Commissioners shall, in addition to the salary and the sum in lieu of mileage now allowed by law, be allowed the same sum for stationery and for the pay of necessary clerk hire as is now allowed to the Members of the House of Representatives of the United States, to be paid out of the Treasury of the United States, and the franking privilege allowed by law to Members of Congress. No person shall be eligible to election as Resident Commissioner who is not a bona fide elector of said islands and who does not owe allegiance to the United States and who is not more than thirty years of age and who does not read and write the English language. The present two Resident Commissioners shall hold office until the fourth of March, nineteen hundred and seventeen. In case of vacancy in the position of Resident Commissioner caused by resignation or otherwise, the Governor General may make temporary appointments until the next meeting of the Philippine Legislature, which shall then fill such vacancy; but the Resident Commissioner thus elected shall hold office only for the unexpired portion of the term wherein the vacancy occurred.

SEC. 21. That the supreme executive power shall be vested in an executive officer, whose official title shall be "The Governor General of the Philippine Islands." He shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and hold his office at the pleasure of the President and until his successor is chosen and qualified. The Governor General shall reside in the Philippine Islands during his official incumbency, and maintain his office at the seat of government. He shall, unless otherwise herein provided, appoint, by and with the consent of the Philippine Senate, such officers as may now be appointed by the Governor General, or such as he is authorized by this Act to appoint, or whom he may hereafter be authorized by law to appoint; but appointments made while the senate is not in session shall be effective either until disapproval or until the next adjournment of the senate. He shall have general supervision and control of all of the departments and bureaus of the government in the Philippine Islands as far as is not inconsistent with the provisions of this Act, and shall be commander in chief of all locally created armed forces and militia. He is hereby vested with the exclusive power to grant pardons and reprieves and remit fines and forfeitures, and may veto any legislation enacted as herein provided. He shall submit within ten days of the opening of each regular session of the Philippine Legislature a budget of receipts and expenditures, which shall be the basis of the annual appropriation bill. He shall commission all officers that he may be authorized to appoint. He shall be responsible for the faithful execution of the laws of the Philippine Islands and of the United States operative within the Philippine Islands, and whenever it becomes necessary he may call upon the commanders of the military

and naval forces of the United States in the Islands, or summon the posse comitatus, or call out the militia or other locally created armed forces, to prevent or suppress lawless violence, invasion, insurrection, or rebellion; and he may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, suspend the privileges of the writ of habeas corpus, or place the islands, or any part thereof, under martial law: *Provided*, That whenever the Governor General shall exercise this authority, he shall at once notify the President of the United States thereof, together with the attending facts and circumstances, and the President shall have power to modify or vacate the action of the Governor General. He shall annually and at such other times as he may be required make such official report of the transactions of the government of the Philippine Islands to an executive department of the United States to be designated by the President, and his said annual report shall be transmitted to the Congress of the United States; and he shall perform such additional duties and functions as may in pursuance of law be delegated or assigned to him by the President.

SEC. 22. That, except as provided otherwise in this Act, the executive departments of the Philippine government shall continue as now authorized by law until otherwise provided by the Philippine Legislature. When the Philippine Legislature herein provided shall control and organize, the Philippine Commission, as such, shall cease and determine, and the members thereof shall vacate their offices as members of said commission: *Provided*, That the heads of executive departments shall continue to exercise their executive functions until the heads of departments provided by the Philippine Legislature pursuant to the provisions of this Act are appointed and qualified. The Philippine Legislature may thereafter by appropriate legislation increase the number or abolish any of the executive departments, or make such changes in the names and duties thereof as it may see fit, and shall provide for the appointment and removal of the heads of the executive departments by the Governor General: *Provided*, That all executive functions of the government must be directly under the Governor General or within one of the executive departments under the supervision and control of the Governor General. There is hereby established a bureau, to be known as the Bureau of Non-Christian tribes, which said bureau shall be embraced in one of the executive departments to be designated by the Governor General, and shall have general supervision over the public affairs of the inhabitants of the territory represented in the legislature by appointive senators and representatives.

SEC. 23. That there shall be appointed by the President, by and with the advice and consent of the Senate of the United States, a vice governor of the Philippine Islands, who shall have all of the powers of the Governor General in the case of a vacancy or temporary removal, resignation, or disability of the Governor General, or in case of his temporary absence; and the said vice governor shall be the head of the executive department, known as the department of public instruction, which shall include the bureau of education and the bureau of health, and he may be assigned such other executive duties as the Governor General may designate.

Other bureaus now included in the department of public instruction shall, until otherwise provided by the Philippine Legislature, be included in the department of the interior.

The President may designate the head of an executive department of the Philippine government to act as Governor General in

the case of a vacancy, the temporary removal, resignation, or disability of the Governor General and the vice governor, or their temporary absence, and the head of the department thus designated shall exercise all the powers and perform all the duties of the Governor General during such vacancy, disability, or absence.

SEC. 24. That there shall be appointed by the President an auditor, who shall examine, audit, and settle all accounts pertaining to the revenues and receipts from whatever source of the Philippine government and of the provincial and municipal governments of the Philippines, including trust funds, and funds derived from bond issues; and audit, in accordance with law and administrative regulations, all expenditures of funds or property pertaining to or held in trust by the government or the provinces or municipalities thereof. He shall perform a like duty with respect to all government branches.

He shall keep the general accounts of the government and preserve the vouchers pertaining thereto.

It shall be the duty of the auditor to bring to the attention of the proper administrative officer expenditures of funds or property which, in his opinion, are irregular, unnecessary, excessive, or extravagant.

There shall be a deputy auditor appointed in the same manner as the auditor. The deputy auditor shall sign such official papers as the auditor may designate and perform such other duties as the auditor may prescribe, and in case of the death, resignation, sickness, or other absence of the auditor from his office, from any cause, the deputy auditor shall have charge of such office. In case of the absence from duty, from any cause, of both the auditor and the deputy auditor, the Governor General may designate an assistant, who shall have charge of the office.

The administrative jurisdiction of the auditor over accounts, whether of funds or property, and all vouchers and records pertaining thereto, shall be exclusive. With the approval of the Governor General he shall from time to time make and promulgate general or special rules and regulations not inconsistent with law covering the method of accounting for public funds and property, and funds and property held in trust by the government or any of its branches: *Provided*, That any officer accountable for public funds or property may require such additional reports or returns from his subordinates or others as he may deem necessary for his own information and protection.

The decisions of the auditor shall be final and conclusive upon the executive branches of the government, except that appeal therefrom may be taken by the party aggrieved or the head of the department concerned within one year, in the manner hereinafter prescribed. The auditor shall, except as hereinafter provided, have like authority as that conferred by law upon the several auditors of the United States and the Comptroller of the United States Treasury and is authorized to communicate directly with any person having claims before him for settlement, or with any department, officer, or person having official relations with his office.

As soon after the close of each fiscal year as the accounts of said year may be examined and adjusted the auditor shall submit to the Governor General and the Secretary of War an annual report of the fiscal concerns of the government, showing the receipts and disbursements of the various departments and bureaus of the government and of the various provinces and municipalities, and make such other reports as may be required of him by the Governor General or the Secretary of War.

In the execution of their duties the auditor and the deputy auditor are authorized to summon witnesses, administer oaths, and to take evidence, and, in the pursuance of these provisions, may issue subpœnas and enforce the attendance of witnesses, as now provided by law.

The office of the auditor shall be under the general supervision of the Governor General and shall consist of the auditor and deputy auditor and such necessary assistants as may be prescribed by law.

SEC. 25. That any person aggrieved by the action or decision of the auditor in the settlement of his account or claim may, within one year, take an appeal in writing to the Governor General, which appeal shall specifically set forth the particular action of the auditor to which exception is taken, with the reason and authorities relied on for reversing such decision.

If the Governor General shall confirm the action of the auditor, he shall so indorse the appeal and transmit it to the auditor, and the action shall thereupon be final and conclusive. Should the Governor General fail to sustain the action of the auditor, he shall forthwith transmit his grounds of disapproval to the Secretary of War, together with the appeal and the papers necessary to a proper understanding of the matter. The decision of the Secretary of War in such case shall be final and conclusive.

SEEC. 26. That the supreme court and the courts of first instance of the Philippine Islands shall possess and exercise jurisdiction as heretofore provided and such additional jurisdiction as shall hereafter be prescribed by law. The municipal courts of said islands shall possess and exercise jurisdiction as now provided by law, subject in all matters to such alteration and amendment as may be hereafter enacted by law; and the chief justice and associate justices of the supreme court shall hereafter be appointed by the President, by and with the advice and consent of the Senate of the United States. The judges of the court of first instance shall be appointed by the Governor General, by and with the advice and consent of the Philippine Senate: *Provided*, That the admiralty jurisdiction of the supreme court and courts of first instance shall not be changed except by Act of Congress. That in all cases pending under the operation of existing laws, both criminal and civil, the jurisdiction shall continue until final judgment and determination.

SEC. 27. That the Supreme Court of the United States shall have jurisdiction to review, revise, reverse, modify, or affirm the final judgments and decrees of the Supreme Court of the Philippine Islands in all actions, cases, causes, and proceedings now pending therein or hereafter determined thereby in which the Constitution or any statute, treaty, title, right or privilege of the United States is involved, or in causes in which the value in controversy exceeds $25,000, or in which the title or possession of real estate exceeding in value the sum of $25,000, to be ascertained by the oath of either party or of other competent witnesses, is involved or brought in question; and such final judgments or decrees may and can be reviewed, revised, reversed, modified, or affirmed by said Supreme Court of the United States on appeal or writ of error by the party aggrieved within the same time, in the same manner, under the same regulations, and by the same procedure, as far as applicable, as the final judgment and decrees of the district courts of the United States.*

* The Act of Congress of July 1, 1902, known as the Philippine Organic Act, in its Section 10, provides:

SEC. 28. That the government of the Philippine Islands may grant franchises and rights including the authority to exercise the right of eminent domain, for the construction and operation of works of public utility and service, and may authorize said works to be constructed and maintained over and across the public property of the United States, including streets, highways, squares, and reservations, and over similar property of the government of said islands, and may adopt rules and regulations under which the provincial and municipal governments of the islands may grant the right to use and occupy such public property belonging to said provinces or municipalities: *Provided*, That no private property shall be damaged or taken for any purpose under this section without just compensation, and that such authority to take and occupy land shall not authorize the taking, use, or occupation of any land except such as is required for the actual necessary purposes for which the franchise is granted, and that no franchise or right shall be granted to any individual, firm, or corporation except under the conditions that it shall be subject to amendment, alteration, or repeal by the Congress of the United States, and that lands or right of use and occupation of lands thus granted shall revert to the governments by which they

SEC. 10. That the Supreme Court of the United States shall have jurisdiction to review, revise, reverse modity, or affirm the final judgments and decrees of the Supreme Court of the Philippine Islands in all actions, cases, causes, and proceedings now pending therein or hereafter determined thereby in which the Constitution or any statute, treaty, title, right, or privilege of the United States is involved, or in cases in which the value in controversy exceeds twenty-five thousand dollars, or in which the title or possession of real estate exceeding in value the sum of twenty-five thousand dollars, to be ascertained by the oath of either party or of other competent witnesses, is involved or brought in question; and such final judgments or decrees may and can be reviewed, revised, modified, or affirmed by said Court of the United States on appeal or writ of error by the party aggrieved, in the same manner, under the same regulations, and by the same procedure, as far as applicable, as the final judgments and decrees of the Circuit Courts of the United States.

Aforesaid act was repealed by implication by the Judiciary Act of Congress of March 3, 1911, effective January 1, 1912, but said Judiciary Act did not materially change the grounds of appeal, or for application of writ of error, or the procedure.

It will be noted that Section 27 of the Jones Law is the same, with very slight modifications, as Section 10 of the Act of July 1, 1902.

But on September 6, 1916, effective thirty days after approval, Congress passed an amendment to the Judiciary Act, and in Sections 5 and 6 of said amendment, it is provided:

SEC. 5. No judgment or decree rendered or passed by the Supreme Court of the Philippine Islands more than sixty days after the approval of this Act shall be reviewed by the Supreme Court upon writ of error or appeal; but it shall be competent for the Supreme Court, by certiorari or otherwise, to require that there be certified to it for review and determination, with the same power and authority and with like effect as if brought up by writ of error or appeal, any cause wherein, after such sixty days, the Supreme Court of the Philippine Islands may render or pass a judgment or decree which would be subject to review under existing laws.

SEC. 6. ..... That writs of Certiorari addressed to the Supreme Court of the Philippine Islands may be granted if application therefor be made within six months.

It will thus be seen that the Jones Law did not change in any manner, shape or form the previous existing laws in so far as reaching the Supreme Court of the United States from the Supreme Court of the Philippine Islands is concerned, but it was the Act of Congress of September 6, 1916, which materially curtailed the right of entry into the Supreme Court of the United States.

were respectively granted upon the termination of the franchises and rights under which they were granted or upon their revocation or repeal. That all franchises or rights granted under this Act shall forbid the issue of stock or bonds except in exchange for actual cash or for property at a fair valuation equal to the par value of the stock or bonds so issued; shall forbid the declaring of stock or bond dividends, and, in the case of public-service corporations, shall provide for the effective regulation of the charges thereof, for the official inspection and regulation of the books and accounts of such corporations, and for the payment of a reasonable percentage of gross earnings into the treasury of the Philippine Islands or of the Province or municipality within which such franchises are granted and exercised: *Provided further*, That it shall be unlawful for any corporation organized under this Act, or for any person, company, or corporation receiving any grant, franchise, or concession from the government of said islands, to use, employ, or contract for the labor of persons held in involuntary servitude; and any person, company, or corporation so violating the provisions of this Act shall forfeit all charters, grants, or franchises for doing business in said islands, in an action or proceeding brought for that purpose in any court of competent jurisdiction by any officer of the Philippine government, or on the complaint of any citizen of the Philippines, under such regulations and rules as the Philippine Legislature shall prescribe, and in addition shall be deemed guilty of an offense, and shall be punished by a fine of not more than $10,000.

SEC. 29. That, except as in this Act otherwise provided, the salaries of all the officials of the Philippines not appointed by the President, including deputies, assistants, and other employees, shall be such and be so paid out of the revenues of the Philippines as shall from time to time be determined by the Philippine Legislature; and if the legislature shall fail to make an appropriation for such salaries, the salaries so fixed shall be paid without the necessity of further appropriations therefor. The salaries of all officers and all expenses of the offices of the various officials of the Philippines appointed as herein provided by the President shall also be paid out of the revenues of the Philippines. The annual salaries of the following-named officials appointed by the President and so to be paid shall be: The Governor General, $18,000; in addition thereto he shall be entitled to the occupancy of the buildings heretofore used by the chief executive of the Philippines, with the furniture and effects therein, free of rental; vice governor, $10,000; chief justice of the supreme court, $8,000; associate justices of the supreme court, $7,500 each; auditor, $6,000; deputy auditor, $3,000.

SEC. 30. That the provisions of the foregoing section shall not apply to provincial and municipal officials; their salaries and the compensation of their deputies, assistants, and other help, as well as all other expenses incurred by the provinces and municipalities, shall be paid out of the provincial and municipal revenues in such manner as the Philippine Legislature shall provide.

SEC. 31. That all laws or parts of laws applicable to the Philippines not in conflict with any of the provisions of this Act are hereby continued in force and effect.

Approved, August 29, 1916.

APPENDIX IV

Editorials from the Boston Transcript

OUR PROMISE TO THE FILIPINOS

From the Boston Transcript, Dec. 28, 1923.

A great to-do is frequently made about our alleged promise of independence to the Filipinos. Thus the New York World speaks of "the absolute pledge by which this nation is committed," and in token thereof quotes the preamble of the Act of Congress commonly known as the Jones Act, enacted in August, 1916. That document reads, in part:

> Whereas, it is, as it has always been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine Isands and to recognize their independence as soon as a stable government can be established therein.

Now on the face of the matter it is incorrect to say that an Act of Congress constitutes an "absolute pledge" by which this nation is irrevocably committed for all time. We are quite sure that the World itself would be foremost and most emphatic in condemning such a contention as preposterous in any of innumerable other cases. The late Congress, for example, enacted a highly protective tariff law. Is the World ready to concede that that act constitutes an "absolute pledge" by which this nation is committed irrevocably to a high protectionist policy? A former Congress enacted a law practically defining as intoxicating any beverage containing more than one-half of one per cent of alcohol. Does the World regard that as an "absolute pledge by which this nation is committed" for all time? The suggestion is absurd. Every body knows that a mere act of Congress may be modified, altered or repealed outright, at any time, by the same authority that made it. To pretend that an Act of Congress, passed by a temporary partisan majority, after a bitter controversy, is an "absolute pledge" from which the nation can never free itself, is logically ridiculous, and is a flat contradition of a thousand facts of record.

But we may go beneath the face of the matter, and challenge the truth of the quoted preamble. As we remember it, when the Jones Act was forced through a reluctant Congress under the whip and spur of President Wilson, it was widely remarked that Congress had enacted a falsehood. It was a falsehood to say, as the preamble did, that it had always been the intention of the people of the United States to withdraw from the Philippines. It was certainly not their intention at the time when those islands became a part of the territorial property of the United States. There is no fact of history more certain than that we acquired those islands just as absolutely and with just as perpetual a title as we acquired Louisiana or Florida or Alaska, and with no more suggestion of subsequent alienation of them than in any of those former cases. Note the words of the Treaty of Paris of 1898:

> Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the islands of Guam in the Marianas or Ladrones.
>
> Spain cedes to United States the archipelago known as the Philippine Islands.

That was all. The cession was absolute and perpetual. There was not a hint in the treaty that we were presently to scuttle out of the islands. On the contrary, there were intimations that we

should not do so. There were specific provisions concerning the future rights of Spain in the islands and concerning the status of the islands which it would have been grossly improper for us to make, unless we meant to hold the islands forever. *The treaty explicitly stated that any obligations assumed by us with respect to Cuba were limited to the time of our occupancy of that island. But there was nothing of that sort concerning our obligations in the Philippines, or Porto Rico, or Guam.* The obligations were assumed without limitation. The direct implication was that our occupancy of those islands was to be perpetual. And we should doubt if anyone would venture to challenge the statement that such was the intention of the American commissioners who made the treaty, and of the President who appointed and commissioned them. It may well be asked if that treaty did not constitute a far more "absolute pledge" by which the nation was far more strongly committed, than did the Jones Act. A treaty, being a contract between equals, cannot be altered or repealed as easily as an act of Congress.

But as to what was "the purpose of the people of the United States" we have indisputable evidence of record, which flatly gives the lie to the preamble of the Jones Act. In the first national electoral campaign after the Treaty of Paris, in 1900, the question of our possession and disposition of the Philippines was a leading issue. Mr. William J. Bryan was rampant against what he called "imperialism" and on that issue made his run as the Democratic candidate for the Presidency. His platform railed against McKinley's Philippine policy, and demanded "an immediate declaration of the nation's purpose to give the Philippines independence." President McKinley whose Philippine policy Mr. Bryan so bitterly condemned, was the Republican candidate, and he ran on a platform which declared that his policy in the Philippines had "won the undoubted approval of the American people," which gave no hint of independence for the Philippines, but on the contrary spoke of our "sovereign rights" in the islands and called for "the largest measure of self-government consistent with their welfare and our duties." The election thus became what Mr. Wilson would have called a "great and solemn referendum" on the question whether the Philippines were to be retained under our sovereignty. The result was a popular majority of nearly a million votes in favor of Mr. McKinley and American sovereignty over the Philippines.

And sixteen years later the framers of the Jones Act had the effrontery and the Democratic majority in Congress had the votes in both Houses to declare that in thus voting it was "the purpose of the people of the United States to withdraw their sovereignty" from the Philippines. It would be scarcely more false to say that by their vote in 1920 they expressed their desire to enter the League of Nations. Again, in 1904, Theodore Roosevelt ran for the presidency on a platform which gave no hint of Philippine independence, but which directly implied that American sovereignty was to be perpetual. Alton B. Parker ran as the Democratic candidate on a platform demanding independence for the Philippines. And the people by a popular majority of more than two and a half millions elected Roosevelt and rejected Philippine independence. And twelve years later the Jones Act declared that it was their purpose to scuttle out of the Philippines. As well say that the election of 1896 demonstrated their purpose to have free silver at the ratio of sixteen to one. In 1908 the same story was repeated. Mr. Taft ran on a platform approving the Philippine policy of his predecessors and maintaining American sovereignty, and Mr. Bryan ran on

his former issue of Philippine independence. The people decided for the former by a majority of a million and a quarter. In 1912 the Republican platform stood by American sovereignty in the Philippines, while the Progressive platform was silent on the subject, and the Democratic platform demanded Philippine independence. The last-named secured only a minority of votes. In 1916 the Republican platform vigorously condemned the Philippine independence movement, while the Democratic approved it. The Democrats won the election by a mere plurality. In 1920 the Democrats once more called for Philippine independence, while the Republicans ignored the question, implying that they stood on their former ground. The result was an overwhelming rejection of the Democratic platform and candidate, Philippine independence with the rest.

In brief, a majority of the American people has never declared for Philippine independence, but at every election in which that was an issue not overshadowed by something else they have voted overwhelming against it. The folly of the Jones Act in declaring that it has always been their purpose to scuttle out of the islands is rivalled only by the folly of pointing to that act as an "absolute pledge by which this nation is committed." The future of the Philippines is in the power of the American people to shape as they see fit. Whether this be in independence, a protectorate or a territorial status there is ample time to decide.

TWENTY-FIVE PHILIPPINE YEARS

From the Boston Transcript Jan. 17, 1924

The Filipino emissaries at Washington are unintentionally calling attention to a suggestive anniversary. It was just twenty-five years ago, on January 17, 1899, that President McKinley appointed the first Philippine Commission. The treaty of Paris had been concluded on December 10, and was about to be ratified by the Senate. Under it the United States legally acquired complete, unconditional and perpetual ownership of the Philippine Islands. Obviously, it was incumbent upon our Government thus promptly to seek to determine, in an authoritative manner, what should be done with our new possessions.

Our commissioners at Paris, in connection with the peace negotiations, in order that they might themselves deal intelligently with the subject in prescribing the terms of the treaty, had exhaustively examined every available authority, Filipino European and American; and had become thoroughly convinced that the only just humane and honorable course, demanded by the welfare of the islands themselves as well as by our obligations to them and to the world, was for the United States to accept the consequences of its act in expelling the Spanish government from those islands, by itself establishing in and maintaining over them at least an equally good government. The completeness of that conviction was shown by the fact that whereas when the commissioners were appointed only one of the five was in favor of acquiring all the islands by absolute cession; as a result of their inquiries and investigations the other four came to precisely the same point of view, and insisted upon such acquisition of the islands.

The act of acquisition being accomplished, it became necessary to conduct further investigatios and studies, in the islands themselves,

as a baisis for the organization and conduct of the new government which we had obligated ourselves to establish, and which we naturally desired to make as much better than that which it replaced as was humanly possible. The first Philippine Commission, then appointed on January 17, 1899, consisted of Jacob Gould Schurman, president of Cornell University and eminent as a publicist; Major General Elwell S. Otis, then the ranking officer of the United States Army in the Philippines; Rear Admiral George Dewey, commander of the United States fleet in those waters; Colonel Charles Denby, for fourteen years our minister to China and one of our foremost authorities on Far Eastern affairs, and Dean C. Worcester, an instructor in the Universitc of Michigan who had spent years in the islands studying their character, resources and needs. A better commission it would scarcely have been possible to select.

The commission was instructed by the President to ascertain what amelioration in the condition of the Filipino people was possible; to study the existing social and political state of the several populations, particularly as regarded the forms of local government, the administration of justice, the collection of taxes the means of transportation and the need of public works; to recommend suitable persons for appointment to offices wherever such appointments were needed; to use respect for all the deals, customs and institutions of the natives; and to emphasize the just and benevolent intentions of the United States concerning them.

The response of the Filipino politicians—not of the people generally, but of the political leaders of whom the present Separatists are the successors—was war. At the time of the appointment of the commission peace prevailed upon the islands. There had been threats of and preparations for hostilities against Americans, but no overt act. They had been made under the leadership of Emilio Aguinaldo, who had directed some Filipino operations against the Spaniards during our attacks upon Manila, but whose cooperation Admiral Dewey had explicitly refused to accept; and of whom Admiral Dewey officially declared that he uttered a false proclamation to the Filipino people, and that he intruded himself into the operations at Manila in 1898 solely for purposes of personal gain. "I think he was there," said Admiral Dewey, "for gain—for money—that independence had never up to that time entered his head. He was there for loot and money. I believe that implicity. I saw the loot brought in."

As soon, then, as Aguinaldo and his aides learned that this commission had been appointed, they began open war against the Americans in the Philippines. The commissioners sailed from Vancouver on January 31, when they arrived at Yokohama they learned that the Filipino War had begun on February 4. This circumstance gravely interfered with their work, but they persevered and made so good progress that a year after their arrival at Manila, in March, 1900, President McKinley felt warranted in appointing a new commission, to organize a civil government in the islands; of which William H. Taft was the head. Since that time our administration in the Philippines, save for and indeed largely in spite of the egregious perversions of Francis Burton Harrison, has made steadily toward realization of the benevolent purposes announced in the appointment of that first commission, twenty-five years ago; with a degree of altruistic success unrivalled in the history of the world.

There is an unconscious but none the less biting irony in the fact that this quarter-centenary of the appointment of that commis-

sion is marked with demands by Aguinaldo's successors for practical repudiation of all that has been done, with the reduction of the Government that has done it to the status of "a mere figurehead"; and for our recognition of the success of the insurrection which was started twenty-five years ago for the deliberate purpose of preventing us, if possible, from doing the work which we have done for the islands. We knew how to deal with the insurrection in 1899. We shall know how to deal no less effectually with its impertinent complement in 1924.

APPENDIX V.

THE TERRITORIAL EXPANSION OF THE UNITED STATES

BY THE HON. E. FINLEY JOHNSON
Associate Justice of the Supreme Court of the Philippines

This monograph, by a distinguished jurist who has given a quarter of a century of service to his own and the Philippine people, is an authoritative study of a subject which has been discussed here for some time, and which is now apparently under consideration by the Congress of the United States.

The period covered extends from the Declaration of Independence to the present time.

TERRITORIAL EXPANSION OF THE UNITED STATES OF AMERICA FROM THE DECLARATION OF INDEPENDENCE, JULY 4, 1776, TO THE ACQUISITION OF THE VIRGIN ISLANDS, JANUARY 17, 1917.—TERRITORIES, "UNORGANIZED," "ORGANIZED OR INCORPORATED" AND "INCORPORATED INTO THE UNITED STATES,"—DEFINED.

On the 4th day of July, 1776, by the Declaration of Independence the thirteen American colonies became thirteen free and independent states and were thereafter known as "The United States of America." At that time the new government had no property of any description. Its only asset consisted of several million dollars of indebtedness. It had no government. The declaration of independence made no provision for the government of the United States of America. The only governmental agency existing at that time was the continental congress. The congress, as then constituted, declared "that, as Free and Independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which Independent States may of right do."

There was no provision made in the declaration of independence for an executive or a judiciary in the new government. Neither was there any provision for selecting new members of Congress. The declaration of independence did not pretend to create nor establish a form of government for the new entity. The fact that the new entity created by the declaration of independence was not a workable government soon became manifest to the wise statesmen of that time, and they immediately began to formulate a plan by which it should become efficient and effective. A little over one year after the declaration of independence the "articles of confederation and perfect union" were proposed and adopted by Congress on the 9th day of July, 1778. These

articles were later ratified by the different states in 1781. In March, 1781, enough of the states had ratified the "articles of confederation and perfect union" so that the same became authority for the administration of the Government by the Congress of the United States. The "articles of confederation" made no provision for an executive nor a judicial department of the government. The entire administration of the central government was retained by Congress. Article 10 provided, however, that "the committee of the state, or any nine of them shall be authorized to execute, during the recess of Congress, such of the powers of the Congress as the United States, in congress assembled, by the consent of nine states, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states in the congress of the United States assembled, is requisite."

During all of the time, after the declaration of independence and the adoption of the articles of confederation, until 1783, the United States of America was still at war with Great Britain. The government was in a deplorable condition. It had debts but no money, and no plan had been adopted for the raising of funds for the new government. It had no central authority to direct the affairs of the government. Under the system of "Confederation" the colonies retained their separate entity, and practically sovereign power. They made no provision for a President nor for courts, and although Congress was established it was given no authority to enforce its legislative acts and no means by which the respective states could be compelled to contribute to the national welfare. The new republic, under the confederation, was a nation in name only and powerless to function as one separate and distinct power. Under the articles of confederation the colonies (states) conducted their affairs as they pleased. They issued debased currency, put obstacles in the way of interstate commerce, and passed laws hampering and handicapping the collections of debts due to non-residents.

At the conclusion of peace with Great Britain in 1783, the statesmen who were interested in the future of their government began to lay plans for the collection of funds for the maintenance of the government and for the payment of its debts. The government at that time was without money, with no machinery for the collection of taxes and no property out of which funds could be realized. Various plans were presented for the purpose of raising the necessary money for the government.

Plans were suggested to raise the necessary funds by imposing a tax upon the respective states, based upon their population. That proposition met with determined opposition. Some of the states had a large population with small territory. Some of the states had a small population with a large and unoccupied territory. The states with small territory and a large population complained that a tax levied upon them in proportion to their population would be unjust, while the states with a small population and a large territory would be able to sell their unoccupied lands to pay their quota to the central government, and thus relieve their citizens of the payment of any tax whatever.

NORTHWEST TERRITORY

While that discussion was going on, it was proposed that all of the unoccupied territory of the respective states be ceded to the central government to be used and disposed of by the central government as

its property for the purpose of assisting in the payment of its expenses. That discussion continued with fevered heat until the state of Virginia and other states ceded all of their unoccupied territory to the central government. Said territory was accepted by the central government with the understanding, in accordance with the resolution presented by Mr. Thomas Jefferson in the Congress of the United States of America in 1784 under the confederacy, that said ceded territory or land should be formed into "territories of the United States and later into states." The cession of the unoccupied lands of the different states was accepted, and the first territory organized was that known as the "Northwest Territory," in 1787, which had been ceded by the state of Virginia to the central government in 1784. The ordinance organizing the "Northwest Territory" into a government as a territory of the United States, was adopted the 13th day of July, 1787. Said ordinance, written by Mr. Thomas Jefferson, was the first act of Congress organizing the land ceded by the state into a territory of the United States. Said ordinance provided for a complete government for the territory. It provided for a governor, for courts, and for a legislative body. In other words, a complete form of government was established in said territory by said ordinance. All the officials were appointed by the Congress of the United States.

Article 4 of said ordinance provided that "the said *territory*, and the *states* which may be formed *therein, shall forever remain a part of this confederacy of the United States of America.*" Said article further provided: "the legislatures of those districts or new states, shall never interfere with the primary disposal of the soil by the United States in Congress assembled." By the provision of said article 4, two facts were established: first, that said territory shall forever remain a part of the United States of America, and second, that the disposal of the lands therein located should be left to Congress without any interference on the part of the territory or states thereafter to be formed. All of this was done under the "Articles of Confederation." When the "Constitution" was adopted by Congress and ratified by all of the states two years later, the substance of the Jefferson resolution of 1784 and the policy of the Ordinance quoted were carried into the Constitution as paragraph 3 of Article 4.

WESTERN RESERVE

The second tract of land ceded by the states to the Federal Government was that by the state of Connecticut, known as the "Western Reserve," on the 14th day of September, 1786. About the same time the states of New York, Massachussetts, North Carolina and Georgia ceded to the Federal Government all of their unoccupied lands. All of said cessions were made with the express understanding that said cessions "should forever remain a part of the Confederacy of the United States of America." After the various cessions by the different states and the adoption of a government for the "Northwest Territory" on the 13th day of July, 1787, no further action was taken by the Congress of the United States under the constitution until the 7th day of May, 1800, when said territory was divided into two separate governments for the purpose of *temporary* government, one part to be called the "Indiana Territory," the boundaries of which were given in said act, with its capital located at "Saint Vincennes" on the Wabash river, and the other part to be still known as the "Territory of the United States Northwest of the Ohio River," with its capital located at Chilicothe on the Scioto river.

Out of the "Northwest Territory" including the "Western Reserve" and in accordance with the provisions of the "Ordinance of the North-

west Territory" the following states, except Ohio, were organized into territories and later into states: Indiana (1816), Illinois (1818), Michigan (1836), Wisconsin (1847), and Minnesota (1858). The territory now constituting the state of Ohio was segregated from the "Northwest Territory" in 1800, and without being organized as a separate territory was permitted to adopt a constitution in 1802, and became a state in 1803. Ohio was the fourth state added to the United States after the declaration of independence.

COLONY AND STATE OF VERMONT

Vermont was a colony in 1776 and had been so for many years, but was not considered among the original colonies which united and became the United States of America on the 4th day of July, 1776. As early as 1776 it had adopted a constitutional form of government. It became, at its own request, one of the states of the new Union on the 18th day of February, 1791. (1 U. S. Stat. at L. 191,197.)

CESSION OF TERRITORY BY THE STATE OF VIRGINIA—STATE OF KENTUCKY—15th STATE

On the 18th day of December, 1789, the legislature of the commonwealth of Virginia passed an act entitled "an act concerning the erection of the district of Kentucky into an independent state." On the 4th day of February, 1791 (1 U. S. Stat. at L. 186), the Congress of the United States passed an act declaring the consent of Congress, that a new state be formed within the jurisdiction of the commonwealth of Virginia, and admitted into the Union, by the name of the state of Kentucky, and provided that said district or territory should become a new state and be received into the Union by the name of "State of Kentucky" on the first day of June, 1792. Said act further provided that the "State of Kentucky" shall be received and admitted into the Union as a new and entire member of the United States of America. Kentucky was the second state added to the Union and was admitted without having been organized as a territory. It was the 15th state of the United States of America.

CESSION OF TERRITORY BY THE STATE OF NORTH CAROLINA TO THE THE UNITED STATES—TENNESSEE (1796), 16th STATE—SOUTHWEST TERRITORY.

In the month of December, 1789, the state of North Carolina ceded to the United States a large tract of public land which the colony or state of North Carolina then owned and described as its "Western Territory." Said cession contained a number of conditions: "That all the lands intended to be ceded by virtue of this act to the United States of America, shall be considered as a common fund for the use and benefit of the United States of America, North Carolina inclusive, according to their respective and usual proportion in the general charge and expenditure and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever; that the territory so ceded, shall be *laid out and formed into a state or states*, containing a suitable extent of territory, the inhabitants of which shall enjoy all the privileges, *benefits and advantages set forth in the ordinance*, for the government of the 'Northwest Territory' of the United States: that Congress assume the government of the said ceded territory, which they shall execute in a manner similar to that which they support in the territory west of the Ohio river; that Congress shall pro-

tect the inhabitants against enemies, and shall never bar or deprive them of any privileges which the people in the territory west of the Ohio river enjoy; that the laws in force and used in the state of North Carolina at the time of passing this act, shall be, and continue, in full force within the territory hereby ceded, until the same shall be repealed or otherwise altered by the legislative authority of the said new territory." On the second day of April, 1790, the deed of cession of the above territory was presented to the Congress of the United States by the two senators of the state of North Carolina and was on the same day accepted with all of the conditions quoted above together with others. (1 U. S. Stat. at L. 106.)

On the 26th day of May, 1790, or less than two months after the cession of the state of North Carolina, the Congress of the United States adopted an act for the government of said territory known as the "Territory of the United States south of the Ohio River." (1 U. S. Stat. at L. 123.) Said territory is sometimes spoken of in the history of the United States as the "Southwest Territory." The act of Congress provided "that the territory of the United States south of the Ohio river, for the purposes of temporary government, shall be one district; the inhabitants of which shall enjoy all the privileges, benefits and advantages set forth in the ordinance for the government of the territory of the United States northwest of the Ohio river. And the government of said territory shall be similar to that which is now exercised in the territory northwest of the Ohio river, except so far as is otherwise provided in the cession of the state of North Carolina."

On the first day of June, 1796, all of the territory ceded by the state of North Carolina to the United States was organized into a state called the state of Tennessee and was at the same time admitted into the Union. (1 U. S. Stat. at L. 491.) Said act of Congress provided: "that the whole territory ceded to the United States by the State of North Carolina (April 2, 1790; May 26. 1790) shall be one state and the same is hereby declared to be one of the United States of America on an equal footing with the original states in all respects whatever, by the name and title of the state of Tennessee." The state of Tennessee was the third state added to the original thirteen.

On the 31st day of January, 1797, Congress adopted an act "giving effect to the laws of the United States, within the state of Tennessee." (1 U. S. Stat. at L. 496.) Said act provided "that all the laws of the United States which are not locally inapplicable, shall have the same force and effect within the state of Tennessee as elsewhere within the United States." While said act did not extend the Constitution of the United States to the state of Tennessee, the fact that it did extend by virtue of the state having become a part of the Union, cannot seriously be doubted. On the 19th day of February, 1799, Congress adopted another act to amend the act entitled "an act giving effect to the laws of the United States within the state of Tennessee" which later act simply provided for the situs for the trial of cases.

CESSION OF TERRRITORY BY THE STATE OF GEORGIA—MISSISSIPPI TERRITORY; ALABAMA—MISSISSIPPI

On the 7th day of April, 1798, the Congress of the United States provided for the settlement of certain claims to certain lands existing between the United States and the state of Georgia, and for the establishment of the "Mississippi Territory." (1 U. S. Stat. at L. 549.) The extent of the territory is described in said act of Congress. On the 10th day of May, 1800, Congress amended the act of April 7, 1798, and established a government in the Mississippi Territory. Said act

provided "that so much of the ordinance of the Northwest Territory (July 13. 1787) providing for the establishment of the government of the United States northwest of the Ohio river, as relates to the organization of a general assembly therein and prescribes the powers thereof, shall forthwith operate and be in force in the Mississippi Territory."

At the time the Mississippi Territory was organized (1798) it was bounded on the north by the state of Tennessee, on the east by the state of Georgia, on the south by Spanish territory (Florida, East and West) and a part of the Louisiana purchase. and on the west by the Mississippi river. Later, two states were organized out of the Mississippi Territory—Mississippi in 1817, and Alabama in 1819.

LOUISIANA TERRITORY

The Louisiana Territory was acquired by the United States from France by the Treaty of Paris on the 30th day of April, 1803. On the 31st day of October, 1803, by an act of Congress (2 U. S. Stat. at L. 245). the President of the United States was authorized to take possession of said territory. Said act further provided that "in order to maintain in said territory the authority of the United States, the President might employ any part of the Army and Navy of the United States and any part of the Militia of the United States, which he may deem necessary." Said act also provided "that until the expiration of the present session of Congress (1803), unless provision for the temporary government of said territories be sooner made by Congress, all the military, civil and judicial powers, exercised by the officers of the existing government, shall be vested in such person or persons, and shall be exercised in such manner as the President of the United States shall direct for maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property and religion."

On the 26th day of March. 1804, Congress adopted an act erecting Louisiana into two territories and providing for the temporary government thereof (2 U. S. Stat. at L. 283), the first to be known as the Territory of Orleans and the second—all the rest of the Louisiana Purchase—to be known as the District of Louisiana. In each of said territories (Orleans and the District of Louisiana) a temporary government was established with executive, legislative and judicial departments. Said act made ample provisions for the protection of the citizens of said territory and also provided that about twenty acts of Congress should be in force in said territory, commencing with the act of Congress of June 5, 1794, and many others, up to and including the act of Congress of May 13, 1800. Said act further provided "that the laws in force in said district of Louisiana at the commencement of this act (March 26, 1804), and not inconsistent with any of the provisions thereof, shall continue in force until altered, modified or repealed by the Governor and judges of the Indiana Territory." It also provided for the district of Louisiana "that the Governor and Judges of the Indiana Territory shall have power to establish in said district of Louisiana, inferior courts, and prescribe their jurisdiction and duties, and to make all laws which they may deem conducive to the good government of the inhabitants thereof; provided, however, that no law shall be valid which is inconsistent with the Constitution and laws of the United States."

It will be noted that while there was no provision that the Constitution of the United States should extend to said territory, the legislature thereof was prohibited from adopting any law contrary to the constitutional laws of the United States.

On the 2nd day of March, 1805, Congress adopted an act further providing for the government of the territory of Orleans (2 U. S. Stat. at L. 322). Under said act the President of the United States was authorized to establish within the territory of Orleans a government in all respects similar to that then exercised in the Mississippi Territory, with the provision that the inhabitants of the territory of Orleans should be entitled to and enjoy all the rights, privileges and advantages secured by the ordinance, then enjoyed by the people of the Mississippi Territory. Said act also provided that the people of the territory of Orleans, when their number should have amounted to 60,000 should be permitted to establish a government for themselves, providing such a government should be a republican government.

On the 20th day of February, 1811, Congress adopted an act to enable the people of the territory of Orleans to form a constitution and state government, and for the admission of said state into the Union on equal footing with the original states. On the 22nd day of January, 1812, the people of the territory of Orleans did form for themselves a constitution and state government, and gave it the name of the State of Louisiana. On the 8th day of April, 1812, Congress adopted an act admitting the state of Louisiana into the Union and extending the laws of the United States to said state (2 U. S. Stat. at L. 701). The state of Louisiana as thus organized included the territory of Orleans. The district of Louisiana above indicated remained as it had originally been organized under the act of March 2, 1805. The exact boundaries of the Louisiana Territory or district of Louisiana were long in dispute. Out of said territory there were finally organized the following states: Louisiana, Arkansas, Missouri, Iowa, Minnesota, The Dakotas, Nebraska, Kansas, Colorado, Wyoming, Montana, Oregon, and Washington.

TERRITORY OF MISSOURI

On the 4th day of June, 1812, Congress adopted an act providing for the government of the Territory of Missouri (2 U. S. Stat. at L. 743). Said act provided that the territory theretofore called Louisiana should thereafter be called the Territory of Missouri. Said act provided for a temporary government for the Territory of Missouri. It provided for executive, legislative, and judicial departments. It further provided that the laws and regulations in force in the Territory of Louisiana, not inconsistent with the provisions of said act, should continue in force until altered, modified or repealed.

On the 6th day of March, 1820, Congress adopted an act to authorize the people of the Territory of Missouri to form a constitution and state government, and for the admission of such state into the Union on equal footing with the original states, and to prohibit slavery in certain territory. Said act gave the boundaries of the territory to be included in the new state of Missouri (2 U. S. Stat. at L. 545). The state of Missouri having adopted the Constitution, was admitted into the Union on certain conditions, on the 2nd day of March, 1821. (3 U. S. Stat. at L. 645.)

Soon after the cession of the unoccupied public lands by the different states—Virginia, Massachusetts, New York, North Carolina and Georgia—to the Federal Government, there came a rapid expansion of the public domain by purchase and conquest by the Federal Government. Said acquisitions of territory occurred in about the following order:

Southwest Territory (June 1, 1796); Mississippi Territory (1798); Louisiana Territory (1803); Florida Territory, East and West (1819);

Missouri Territory (1812); Territory ceded by Mexico (1845-1853) including Texas, New Mexico, Arizona (The Gadsden Purchase), Utah, a part of Colorado, Idaho and Oregon. Nevada, and California; Guano Islands (1856); Alaska (1867); Midway Island (1867); Hawaii (1898); Philippine Islands (1899); Porto Rico (1899); Guam (1899); Samoa (Tutuilla Island) (1900); Panama Canal Zone (1904); and Virgin Islands (1917).

TERRITORIES, FORMED INTO STATES—EXCEPTIONS

Each of the cessions or grants of territory above mentioned were later organized into territories and then into states, except Alaska, Hawaii, Philippine Islands, Porto Rico, Guam, Samoa, Midway, Wake, the Panama Canal Zone, and the Virgin Islands. Guam, Samoa, Midway Island, Wake Island, the Panama Canal Zone and the Virgin Islands have not yet been organized into territories.

PHILIPPINE ISLANDS—TERRITORY OF

The Philippine Islands was an unorganized territory of the United States from the 11th day of April, 1899, to July 1, 1902. They were organized into a territory with a temporary civil government, with all of the departments necessary for their due administration, by an act of Congress of July 1, 1902 (32 Stat. at L. 691). That act was amended by changing some of the details in the administration on the 29th day of August, 1916 (39 Stat. at L. 545).

Under the act of Congress of July 1, 1902, organizing a civil government for the Philippine Islands, a provision was inserted in section 1 to the effect that section 1891 of the Revised Statutes of 1878 shall not apply to said territories. Section 1891 provides that "The Constitution and all laws of the United States which are not locally inapplicable, shall have the same force and effect within all the organized territories, and in every territory hereafter organized as elsewhere within the United States."

It will be noted from section 1891 that the Constitution and all laws of the United States were extended to all territories then organized or thereafter to be organized, so far as they were locally applicable, and of course would have applied to the Philippine Islands, but for the exception made in the Act of Congress of July 1, 1902, organizing the territory of the Philippine Islands. Said act of July 1, 1902, was substituted by an Act of Congress of August 29, 1916, (39 U. S. Stat. at L. 545). Section 5 of that act provides "that the statutory laws of the United States hereafter enacted shall not apply to the Philippine Islands, except when they specifically so provide, or it is so provided in this act." Section 6 provides that the laws now in force in the Philippines shall continue in force and effect except as altered, amended, or modified herein, until altered, amended, or repealed by the legislative authority herein provided or by act of Congress of the United States. These two sections taken together clearly indicate that neither the Constitution of the United States nor acts of Congress, as such, is applicable to the Philippine Territory, unless express provision is made therefor. No provision was made in either the Act of July 1, 1902, or that of August 29, 1916, concerning the citizenship of the inhabitants.

PORTO RICO

Porto Rico was an unorganized territory of the United States from the 11th day of April, 1899, to the 12th day of April, 1900. It was

organized into a territory with a temporary civil government, with all of the departments necessary for its administration, by an act of Congress of April 12, 1900 (31 U. S. Stat. at L. 77). That act was amended by changing some of the details in the administration on the 2nd day of March, 1917. (Act of Congress, March 2, 1917, 39 U. S. Stat. at L. 951.)

The act of Congress of April 12, 1900, provided a temporary civil government for the island of Porto Rico and the adjacent islands belonging to the United States. (Vol. 31, U. S. Stat. at L. 77.) Section 14 of said act provided "that the *statutory laws* of the United States *not locally inapplicable except* as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Porto Rico as in the United States, *except the internal revenue laws which, in view of the* provisions of section 3, shall not have force and effect in Porto Rico." Section 3 provided that all merchandise coming into the United States from Porto Rico and coming into Porto Rico from the United States should be entered at several ports of entry upon payment of fifteen (15) per centum of the duties which are required to be levied, collected, and paid upon like articles of merchandise imported from foreign countries, etc.

On the second day of March, 1917, the Congress of the United States adopted "an act to provide a civil government for Porto Rico and for other purposes" (39 U. S. Stat. at L. 951), which act was practically a substitute for the act of April 12, 1900. In said act the provision of section 14 above quoted of the Act of Congress of April 12, 1900, was in effect included as section 9, which provided "that the statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Porto Rico as in the United States, except the internal revenue law."

The Act of Congress organizing Porto Rico into a territory was similar in many respects to the act of Congress organizing the Philippine Islands into a territory. They each provided for a government composed of the executive, legislative, and judicial departments. (Act of Congress July 1, 1902, 32 U. S. Stat. at L. 691; Act of Congress August 29, 1916, 39 U. S. Stat. at L. 545; Act of Congress April 30, 1900, 31 U. S. Stat. at L. 77; Act of Congress March 2, 1917, 39 U. S. Stat. at L. 951.)

From an examination of the acts of Congress organizing the Territory of the Philippine Islands of July 1, 1902, and August 29, 1916, and of the acts organizing the Territory of Porto Rico of April 12, 1900, and March 2, 1917, it will be noted that the Constitution of the United States was not made applicable in either. It will also be noted that no act of Congress was applicable to the Philippine Territory while in Porto Rico all the statutes of the United States not locally inapplicable, except the revenue laws, were made applicable. There is another notable distinction between the organic act of Porto Rico of March 2, 1917, and that of the Philippine Islands of August 29, 1916. It is, that all of the natives of Porto Rico who were permanently residing in said island and were not citizens of any foreign country, were declared to be citizens of the United States. (Section 5, Act of Congress of March 2, 1917, 39 U. S. Stat. at L. 951.)

TERRITORY OF HAWAII

After negotiations covering a period of several years, commencing as early as 1854, the republic known as the Hawaiian Islands was, by a joint resolution of the Congress of the United States, an-

nexed to the United States, July 7, 1898. At the time of the annexation or acquisition, the Hawaiian Islands constituted a sovereign and independent nation with a government of its own, republican in form, and a civilized system of laws, civil and criminal, defining rights and affording remedies to its people. The courts were open and due process of law afforded. Said joint resolution (July 7, 1898, 30 U. S. Stat. at L. 750) provided that—

"Whereas the Government of the Republic of Hawaii having, in due form, signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies, and also to cede and transfer to the United States the absolute fee and ownership of all public, Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining: Therefore,

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.

"The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: *Provided,* That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

"Until Congress shall provide for the government of such islands all the civil, judicial, and military powers exercised by the officers of the existing government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned.

"The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist, or as may be hereafter concluded, between the United States and such foreign nations. The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished, and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

"Until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

"The President shall appoint five commissioners, at least two of whom shall be residents of the Hawaiian Islands, who shall, as soon as reasonably practicable, recommend to Congress such legislation concerning the Hawaiian Islands as they shall deem necessary or proper."

On the 30th day of April, 1900 (31 U. S. Stat. at L. 141), the Congress of the United States, in accordance with the resolution above quoted, passed "an Act to provide a government for the Territory of Hawaii." Said act provides for executive, legislative, and judicial departments, defining in detail the duties and powers of each. Section of said act provided "that the *Constitution*, and except as herein otherwise provided, *all the laws of the United States which are not locally inapplicable*, shall have the same force and effect within the said territory (Hawaii) as elsewhere in the United States: *Provided*, That sections 1850 and 1890 of the Revised Statutes of the United States shall not apply to the territory of Hawaii." Section 1850 of the Revised Statutes of the United States requires that "all laws passed by the legislative assembly and governor of *any* territory, except in any of the territories of Colorado, Dakota, Idaho, Montana, and Wyoming shall be submitted to Congress, and if disapproved shall be null and void and of no effect." Said section 1890 was simply a limitation on the right of religious corporations to hold real estate in the territories of the United States. Section 6 of the act organizing the territory of Hawaii provided that the laws of Hawaii not inconsistent with the constitution or laws of the United States or the provisions of this act, shall continue in force, subject to repeal or amendment by the legislature of Hawaii or the Congress of the United States. Said act in its section 7 also provided that the constitution of the republic of Hawaii and the laws of Hawaii, as set forth in certain chapters enumerated, were repealed.

Section 4 of the act to provide a government for the territory of Hawaii, provided: "That *all persons* who were citizens of the Republic of Hawaii on August 12, 1898, *are hereby declared to be citizens of the United States* and *citizens of the Territory of Hawaii*, and all citizens of the United States resident in the Hawaiian Islands who were resident thereof on or since August 12, 1898, and all the citizens of the United States who shall hereafter reside in the Territory of Hawaii for one year, shall be citizens of the Territory of Hawaii."

On the 27th day of May, 1910, Congress adopted an act to amend the act providing a government for the Territory of Hawaii (36 U. S. Stat. at L. 443). Said act (May 27th, 1910) amended section 5 of Act of April 30, 1900, as follows: "That the Constitution, and, except as otherwise provided, all the laws of the United States, including laws carrying general appropriations which are not locally inapplicable, shall have the same force and effect within the said Territory as elsewhere in the United States; provided that sections 1841-1849, inclusive, 1910-1912, of the Revised Statutes, and the amendments thereto, and an act entitled 'an act to prohibit the passage of special or local laws in the territories of the United States, to limit territorial indebtedness, and for other purposes' approved July 30, 1886, and the amendments thereto, shall not apply to Hawaii. (24 U. S. Stat. at L. 170)

Sections 1841 to 1891, inclusive, of the Revised Statutes of the United States are provisions common to all the Territories and simply relate to the government of Territories of the United States where no other specific regulations are made. Sections 1910 and 1912 of the Revised Statutes simply relate to the jurisdiction of the district courts of the United States and to the right to grant the writ of habeas corpus of such courts. Said sections (1841-1891, 1910 and 1912) were not made applicable to the territory of Hawaii for the simple reason that the organic act of the Territory (31 U. S. Stat. at L., 141) had already provided, in the same or a different method, for the administration of said Territory. The prohibition contained in said amendment to section 5, prohibiting the Hawaiian Territory from passing

local or special laws, and to limit territorial indebtedness, are provisions which have been included in the original organic act of many Territories. They were simply provisions which should have been included in the organic act of April 30, 1900.

There is nothing in the act of Congress of May 27, 1910 (36 U. S. Stat. at L., 443) which in any way limited or modified the status of the Hawaiian Territory. As a matter of fact, inasmuch as the organic act of April 30, 1900, had provided for a complete and workable government by a special law, certainly the provisions common to all the Territories included in sections 1841-1891, inclusive, 1910 and 1912, would not apply to the Hawaiian Territory. Evidently, Congress added the proviso in section 5 quoted above, out of an abundance of precaution.

Considering all of the antecedent negotiations which took place between the United States and the Hawaiian Islands, commencing with the negotiation for annexation in 1853-4, the proposed treaty by President Harrison of 1893, the proposed treaty of President McKinley of annexation of 1898, the joint resolution of annexation by the Congress of the United States of July 7, 1898, quoted above, in relation with the act of Congress of April 30, 1900, extending or making applicable to the Hawaiian Territory the constitution of the United States and practically all of the laws thereof as well as making all citizens or all persons who were residing in the territory on August 12, 1898, citizens of the United States—we are forced to the conclusion that the Hawaiian Islands not only became organized territory of the United States, but were incorporated into the United States as an integral part thereof. At least, we are forced to the conclusion that the people of Hawaii had a right to believe, from all of the negotiations with the Government of the United States, that the said Islands were to be incorporated into the United States as an integral part thereof and under its sovereignty. (Downe vs. Bidwell, 182 U. S. 244, 305.)

OREGON

In the act of August 14, 1848, organizing the Territory of Oregon (9 U. S. Stat. at L. 323-331), it seems that "the revenue laws of the United States" only were extended over the Territory of Oregon. It will be remembered, however, that Oregon had organized itself into a government and was functioning as a government and had been adopting laws for a number of years before the act of August 14, 1848.

WASHINGTON

The Territory of Washington was organized out of the territory theretofore included in the Territory of Oregon. The act organizing the Territory of Washington, of March 2, 1853 (10 Stat. at L. 172) made no provision whatever for the extension of the constitution and statutes of the United States to that Territory. Section 12 provided "that the laws now in force in the Territory of Washington, by virtue of the legislation of Congress in reference to the Territory of Oregon, which have been enacted and passed subsequent to the first day of September, 1848, applicable to the said Territory of Washington together with the legislative enactments of the territory of Oregon, enacted and passed prior to the passage of, and not inconsistent with, the provisions of this act, and applicable to the said Territory of Washington, be, and they are hereby, continued in force in said Territory of Washington until they shall be repealed or amended by future legislation."

TERRITORY OF ALASKA

The Territory of Alaska was acquired by purchase from Russia on the 18th day of March, 1867. In 1868, by an act of Congress, the Alaskan territory was made a revenue district of the United States. On the 17th of May, 1884, Congress adopted an act providing a civil government for Alaska (23 U. S. Stat. at L. 24). That act provided only for an executive and a judicial department. It further provided that the the general laws of the state of Oregon should be the law in said Territory, so far as they were applicable and not in conflict with the laws of the United States. That condition of affairs existed in the Territory of Alaska until the 24th day of August, 1912, when Congress adopted an act "to create a legislative assembly in the Territory of Alaska with limited legislative authority" (37 U. S. Stat. at L. part I, p. 512). Said act provided that the Constitution of the United States, and all the laws thereof which are not locally inapplicable, should have the same force and effect within the said Territory as elsewhere in the United States with certain exceptions relating to the customs, internal revenue, postal, or other general laws of the United States, etc.

It will be noted that section 1891, quoted above, of the Revised Statutes of the United States was applied to the Territory of Alaska with certain limitations, in the same way as said section had been applied therefore to the Terrtiories of Oregon, Washington, and Hawaii.

PANAMA CANAL ZONE

On November 18, 1903, a treaty between the United States and Panama was signed, providing facilities for the construction and maintenance of the inter-oceanic canal. In that treaty Panama granted in perpetuity to the United States the use of a zone, five miles wide on each side of the canal route; and within that zone the exclusive control for police, judicial. sanitary and other purposes. For subsidiary canals other territory was ceded and, for the defense of the canal, the coast line of the zone and the islands in Panama bay were also ceded to the United States. The treaty was ratified on February 23, 1904, and in July, 1904, the provisional delimitation of the boundaries of the United States territory on the isthmus of Panama was signed. The canal was constructed and informally opened to commerce on August 15, 1914. The President of the United States proclaimed the official and formal opening of the canal on June 12, 1920.

On the 24th day of August, 1912, Congress passed an act (37 U. S. Stat. at L. 560), to provide for the opening, maintenance, protection and operation of the Panama Canal. Said act provided that the President might acquire additional land. The existing courts were continued by executive order. A district court of the United States was established there. A civil government was established with a governor. The extradition laws of the United States were applicable thereto.

VIRGIN ISLANDS

The Virgin Islands of the United States, formerly known as the Danish West Indies, were purchased by the United States from Denmark by virtue of a treaty ratified by Denmark on the 22nd of December, 1916, ratified by the President of the United States January 17, 1917, and proclaimed on the 25th day of January, 1917. Under an act of Congress, approved March 3, 1917 (39 U. S. Stat. at L. 1132), known as the organic act, all military, civil, and judicial power neces-

sary to govern the islands were vested in a governor, appointed by the President of the United States. All laws, in so far as compatible with the changed sovereignty as contained in the Danish Code of Laws dated April 6, 1906, were continued in force and effect until Congress should provide otherwise. Danish citizens residing in the islands at the time of the treaty were permitted to retain their Danish citizenship by making a declaration before a court of record, to preserve such citizenship; in default of which they were held to have renounced it and to have accepted citizenship in the United States. The *inhabitants therefore* of the Virgin Islands who failed to make of record the fact that they desired to retain their citizenship, *became citizens of the United States.* Said act of Congress continued in force the judicial and legislative departments of the government of the islands which had theretofore been established by Denmark, until Congress should make other provisions therefor.

WAKE ISLAND

Wake Island is an islet of rock in the Pacific Ocean about 1,550 miles northeast of Guano Islands and 3,000 miles east of the Island of Luzon. It belongs to the United States as a Pacific outpost of the Philippine archipelago. It is about one mile square in area, and its importance is due to the fact that it has a cable station for the Pacific Commercial Cable Company. It is administered, under the direction of the President of the United States, by the United States Navy.

SAMOA

The history of American Samoa commenced in the year 1872, when the harbor of Pagogo in the Island of Tutuila was ceded to the United States for a naval and coaling station. In 1878 that cession was confirmed. That arrangement continued until 1898. By a tripartite treaty between Germany, Great Britain and the United States, in 1899, the Island of Tutuila on the 14th day of November, 1899, became the property of the United States, and is administered by the United States Navy, under the direction of the President of the United States.

MIDWAY ISLAND

Midway Island was acquired by the United States in 1867. The United States expended $50,000 improving it in order to make it a station for the United States Navy. It lies at the western end of the Hawaiian group of islands, 1,200 miles from Honolulu. It is still governed by the United States Navy, under the direction of the President of the United States.

DISTRICT OF COLUMBIA

The legislation concerning the acquisition of the District of Columbia covered a long period of years. It was acquired for the purpose of establishing within the same the principal offices of the Federal Government of the United States. It is in fact private property of the Government of the United States, having been segregated, and is administered and governed by the Congress of the United States.

CANADA, JAMAICA AND NOVA SCOTIA

Even before the adoption of the Constitution of the United States, provision was made for the admission of additional territory to the

United States of America. Article 11 of the Articles of Confederation provided that "Canada acceding to this confederation and joining in the United States, shall be admitted into, and entitled to all the advantages of this Union."

It will be seen from the foregoing acts of Congress relating to Alaska, Philippine Islands, Porto Rico and Hawaii (a) that *no* acts of Congress are applicable to the Philippine Islands except those which are expressly made to apply; (b) that *all* acts of Congress are applicable to Porto Rico except those which are not locally inapplicable; (c) that *certain provisions* of the *Constitution* of the United States, and all the laws of the United States which are not locally inapplicable, had the same force and effect in Alaska and the Hawaiian Territory as elsewhere in the United States, except in Hawaii the sections 1850, 1890 and the other section above mentioned, of the Revised Statutes of the United States; and (d) that in Alaska, Hawaii and Porto Rico and the Virgin Islands, the inhabitants were made citizens of the United States, while no such provision was made for the natives of the Philippines.

An examination has been made of practically every act of Congress organizing and incorporating territories of the United States, from the first—that organizing the "Northwest Territory," July 13, 1787 (Vol. 1, U. S. Stat. at L. 51)—to the very last—that for the organization and incorporation of the territory of the Virgin Islands, March 3, 1917 (Vol. 39 U. S. Stat. at L. 1132)—for the purpose of ascertaining the difference in the form of government established in each of the respective territories.

As a result of that examination, we have found that the "enacting clauses" in each of the acts of Congress organizing "territories" have been substantially the same, differing only in detail. Some of them have provided simply "an act to provide a government for" (the particular territory), while others have provided "an act to provide a temporary government for" (the particular territory). We assume that the use of the word "temporary" in the enacting clause organizing a territory, has no signification except to indicate that Congress at the time was not fully prepared to announce a definite form of government.

For many years there existed a discussion concerning whether or not the Constitution of the United States and the laws thereof which were applicable, were in force in the territories. That question was settled. however, by the adoption of section 1891 above quoted, which extended beyond question "the Constitution and all laws of the United States which are *not locally inapplicable* to all the *organized* territories and in every territory hereafter organized as elsewhere within the United States," unless some provision to the contrary was made in the act organizing the new territories, which was done in several instances. In the cases of Oregon, Washington, Porto Rico. Philippine Islands, Hawaii, Alaska and the Virgin Islands, the organic act contained conditions which clearly indicated that section 1891 was not permitted to apply.

CONCLUSIONS

Much has been said concerning "unorganized territory," "organized territory," "incorporated territory" and "incorporated territory into the United States." A careful examination has been made of the method by which the United States has organized all of its territory, beginning with that of the Northwest Territory (1784), the very first, up to and including the last, that of the Virgin Islands, March 3, 1917, for the purpose of arriving at some accurate definition of these terms. Our conclusions are:

(a) That an "unorganized territory" of the United States is a body of land acquired, not for private purposes, by cession, treaty, conquest, or purchase, administered by the executive department of the government or some branch or department thereof, before Congress has taken any definite action to organize the same under a more or less autonomous government, by virtue of a charter or what is commonly called an Organic Act. That has been the status of nearly all acquired territory in the beginning. The Northwest Territory was acquired in 1784 by cession, but Congress took no steps to organize a government for it until July 13, 1787, when by an act of the continental congress under the confederation, a government was established for it. It was "unorganized territory" until a form of government was established. It then became an "organized or incorporated territory." As examples of "unorganized territory" may be mentioned Guam, Samoa, Panama, Wake Island, Midway Island, Howland, Baker Island and Guano Island.

(b) That an "organized or incorporated territory" is a body of land, acquired, not for private purposes, by cession, treaty, conquest, or purchase, administered in accordance with some *act* or laws of the Congress of the United States. It becomes an "organized or incorporated territory" the moment it is given some form of government with a sovereignty or quasi sovereignty, and power to function as such. As examples of "organized or incorporated territories" may be mentioned the Philippine Islands, and the Virgin Islands.

(c) That an "organized territory incorporated into the United States" is a body of land acquired, not for private purposes, by cession, treaty, conquest or purchase, administered in accordance with some *act* or law of the Congress of the United States and to which the general provisions of the constitution and laws of the United States apply in conformity with section 1891 of the Revised Statutes of the United States. As soon as the Constitution and the laws of the United States are made to apply to an "organized or incorporated territory" it then becomes "territory incorporated into the United States." As examples of "organized territory incorporated into the United States" may be mentioned Alaska, Hawaii. and Porto Rico and all the territories which had been organized prior to the adoption of said section 1891 except Oregon and Washington.

By section 1891 of the Revised Statutes of the United States, every territory organized or to be organized instantly became an "organized territory incorporated into the United States" unless a contrary intention was expressed in the organic act, as was done in the cases of Oregon, Washington, Philippine Islands, Porto Rico, and the Virgin Islands. *But whether territories, not* acquired for private purposes of the government, are *"unorganized"* or *"organized or incorporated into the United States," they are as much a part of the United States as the organized states are;* and, as the late President Wilson said *"the great national property, the territories, which the Federal authorities hold in trust for the nation is a seed-bed for development of new states."* (The State, par. 1265). Of course a distinction must be made in discussing the question of "territories" between a body of land acquired by treaty, conquest, or purchase for the purpose of organizing a government therein, and property acquired by the Federal government by purchase for its private purposes, such, for example. as the purchase of land for public buildings, wharves, and for military purposes, etc.

A further distinction has been made between an "organized or incorporated territory" and an "organized territory incorporated into the United States," in the fact that in the first instance the inhabitants of the "organized territories" are not considered citizens of the United

States, while in the second instance, by the very act of incorporation, the inhabitants became citizens of the United States. As examples of the first, may be mentioned the Philippine Islands. As examples of the second, may be mentioned Alaska, Hawaii, Porto Rico and the Virgin Islands.

Rassmussen vs. United States, 191 U. S. 516
Balzac vs. Porto Rico, 258 U. S. 298
Hawaii vs. Mankichi, 190 U. S. 197

When the inhabitants of a territory acquired by the United States are made citizens thereof, it is difficult to understand why such territory with its native inhabitants do not constitute an integral part of the United States and incorporated therein. Extent of territory is not a basis for determining whether the territory is incorporated into the United States or not. It is a question of law. In the absence of other and countervailing evidence, a law of Congress or a provision of a treaty acquiring territory and declaring an intention to confer political and civil rights on the inhabitants of the new lands as American citizens, may be properly interpreted to mean an incorporation of it into the Union, as was done in the cases of Louisiana Purchase, Florida, all of the lands acquired from Mexico, Hawaii, Porto Rico, and Alaska.

WAR TO RELIEVE HUMANITY, NOT TO ACQUIRE TERRITORY

On the 23rd day of April, 1898, the people of the United States, through their Congress, declared war against the Kingdom of Spain, not for the acquisition of territory nor aggrandizement, but to relieve a badly ruled and a down-trodden people from a severe and intolerable government. Having been led by the accidents of war into the acquisition of territory in an effort to uplift humanity, and after the destruction of the only power of protection which the people thereof had, shall we draw geographical limits to our humanity and say that to establish and maintain a permanent government for them is too much trouble and too disagreeable? A diminution of the territorial limits of a country; a contraction of the extent and power of its influence, may be said to be the first sign of a decaying nation.

STATES OF THE UNITED STATES— THE ORDER OF THEIR ADMISSION TO THE UNION

1. The Original Thirteen States, July 4, 1776
2. Vermont . . . . . Feb. 18, 1791
3. Kentucky . . . . . Feb. 4, 1792
4. Tennessee . . . . . June 1, 1796
5. Ohio . . . . . Feb. 19, 1803
6. Louisiana . . . . . Apr. 8, 1812
7. Indiana . . . . . Dec. 11, 1816
8. Mississippi . . . . . Dec. 10, 1817
9. Illinois . . . . . Dec. 31, 1818
10. Alabama . . . . . Dec. 14, 1819
11. Maine . . . . . Mar. 3, 1820
12. Missouri . . . . . Mar. 2, 1821
13. Arkansas . . . . . June 15, 1836
14. Michigan . . . . . Jan. 26, 1837
15. Florida . . . . . Mar. 3, 1845
16. Texas . . . . . Dec. 29, 1845
17. Iowa . . . . . Dec. 28, 1846

18.	Wisconsin	May 29, 1848
19.	California	Sept. 9, 1850
20.	Minnesota	May 9, 1858
21.	Oregon	Feb. 14, 1859
22.	Kansas	Jan. 29, 1861
23.	West Virginia	Dec. 31, 1862
24.	Nebraska	Jan. 4, 1872
25.	Nevada	Oct. 31, 1864
26.	Colorado	Aug. 1, 1876
27.	Montana	Feb. 22, 1889
28.	Washington	Feb. 22, 1889
29.	North Dakota	Feb. 22, 1899
30.	South Dakota	Nov. 2. 1889
31.	Idaho	July 3, 1890
32.	Wyoming	July 10, 1890
33.	Utah	Jan. 4, 1896
34.	Oklahoma	Nov. 16. 1907
35.	New Mexico	Jan. 6, 1912
36.	Arizona	Feb. 14, 1912

Manila, P. I.,

March 8, 1924.

EXTRACT FROM CROSCUP'S U. S. HISTORY PAGE 49—PART II, CHAPTER V. TERRITORIAL EXPANSION

Territorial Division	*Year*	*Area Added*	
Original area	1783		827,844
Louisiana purchase	1803	875,025	
Florida	1819	70,107	
Texas	1845	389,795	
Oregon Territory	1846	288,689	
Mexican cession	1848	523,802	
Gadsden purchase	1853	36,211	
Alaska	1867	590,884	
Hawaiian Islands	1898	6,449	
Porto Rico	1899	3,435	
Guam	1899	210	
Philippine Islands	1899	115,026	
Tutuila Group, Samoa	1900	27	
Panama Canal Zone	1904	474	
Virgin Islands	1917	142	2,900,276
Total			3,728,120

SMALL ISLANDS

Howland	.....	.....	.....
Wake	.....	1	.....
Midway	1867	28	.....
Guano	.....	.....	.....

APPENDIX VI

PRESIDENT COOLIDGE'S REPLY TO RESOLUTIONS OF PHILIPPINE LEGISLATURE PLEADING FOR COMPLETE, IMMEDIATE INDEPENDENCE, TRANSMITTED THROUGH SPEAKER ROXAS OF THE PHILIPPINE HOUSE OF RREPRESENTATIVES

The White House, Washington, February 1, 1924.

My dear Mr. Roxas:

The resolutions adopted by the senate and house of representatives of the Philippines touching upon the relation between the Filipino people and the government of the United States have been received. I have noted carefully all that you have said regarding the history of these relations. I have sought to inform myself so thoroughly as might be as to the occasions of current irritation between the legislature of the Philippines and the executive authority of the islands.

In your presentment you have set forth more or less definitely a series of grievances the gravest of which is that the present executive authority of the islands designated by the United States government is in your opinion out of sympathy with the reasonable national aspirations of the Filipino people. If I do not misinterpret your protest you are disposed to doubt whether your people may reasonably expect if the present executive policy shall continue that the government of the United States will in reasonable time justify the hopes which your people entertain of ultimate independence.

TERMS OF MODERATION

The declaration of the commission of independence charges the governor general with illegal, arbitrary and undemocratic policies in consequence of which the leaders of Filipino participation in the government have resigned and their resignations have been accepted by the governor general.

The commission of independence declares that it is necessary to take all needful steps and to make use of "all lawful means within our power to obtain the complete vindications of the liberties of the country now violated and invaded." It proceeds "and we declare finally that this event, grave and serious as it is, once more demonstrates that the immediate and absolute independence of the Philippines which the whole country demands is the only complete and satisfactory settlement of the Philippine problem."

It is occasion for satisfaction to all concerned that this declaration is couched in terms of moderation and that it goes no farther than to invoke all lawful means within our power. So long as such discussions as this shall be confined to the consideration of lawful means there will be reason to anticipate mutually beneficient conclusions.

CONGRATULATIONS GIVEN

It is a matter of congratulation, which I herewith extend, that you have chosen to carry on this discussion within the bounds of

lawful claims and means. That you have thus declared the purpose to restrict your mode of appeal and methods of enforcing it, is gratifying evidence of the progress which the Filipino people under American auspices have made toward a demonstrated capacity for self-government.

The extent to which the grievances which you suggest are shared by the Filipino people has been a subject of some disagreement. The American government has information which justifies it in the confidence that a very large proportion at any rate and possibly a majority of the substantial citizenry of the islands does not support the claim that there are grounds for serious grievances.

A considerable section of the Filipino people is farther of the opinion that at this time any change which would weaken the tie between the Filipinos and the American nation would be a misfortune to the islands. The world is in a state of high tension and unsettlement. The possibility of either economic or political disorders calculated to bring misfortune if not disaster to the Filipino people unless they are strongly supported is not to be ignored. It should not be overlooked that within the past two years as a result of international arrangements negotiated by the Washington conference on limitation of armament and problems of the Far East the position of the Filipino people has been greatly improved and assured.

INDEBTED TO AMERICA

For the stabilizing advantages which accrue to them in virtue of the assurance of peace in the Pacific they are indirectly indebted to the initiative and efforts of the American government. They can ill afford in a time of so much uncertainty in the world to underrate the value of these contributions to their security. By reason of their assurance against attack by any power, by reason also of that financial and economic strength which inevitably accrues to them by reason of the expanded and still expanding opportunities for industrial and economic development, because of all of these considerations the Filipino people would do well to consider most carefully the value of their intimate association with the American nation.

Although they have made wonderful advances in the last quarter century the Filipino people are by no means equipped, either in wealth or experience, to undertake the heavy burden which would be imposed upon them with political independence. Their position in the world is such that without American protection there would be the unrestricted temptation to maintain an exensive and costly diplomatic service and an ineffective but costly military and naval service. It is to be doubted whether with the utmost exertion, the most complete solidarity among themselves, the most unqualified and devoted patriotism it would be possible for the people of the Islands to maintain an independent place in the world for an indefinite time.

CONDITIONS ELSEWHERE

In presenting these considerations it is perhaps worth while to draw your attention to the conditions in which some other peoples find themselves by reason of lacking such guaranties and assurances as the Filipinos enjoy. The burdens of armament and governmental expenses which many small nations are compelled to bear in these times are so great that we see everywhere the evidence of national prosperity and community progress hindered if not destroyed because of them. During the world war the Filipino people were comparatively

undisturbed in their ordinary pursuits, left free to continue their fine progress. But it may well be doubted whether if they had been short of the protection afforded by the United States they could have enjoyed so fortunate an experience. Much more probably they would have become involved in the great conflict and their independence and nationality would have become, as did those of many other peoples, pawns in the great world organization. There could be no more unfortunate posture in which to place a people such as your own.

You have set your feet firmly in the path of advancement and improvement. But you need above all else assured opportunity of continuing in that course without intereference from the outside or turmoil within. Working out the highest destiny of even the most talented and advanced of people is a matter of many generations.

FAIR APPRAISAL ASKED

A fair appraisal of all these considerations and others which suggest themselves without requiring enumeration will I am sure justify the frank statement that the government of the United States would not feel that it had performed its full duty by the Filipino people nor discharged all of its obligations to civilization if it should yield at this time to your aspiration for national independence.

The present relationship between the American nation and the Filipino people arose out of a strange, and almost unparallelled, turn of international affairs. A great responsibility came unsought to the American people. It was not imposed upon them because they had yielded to any designs of imperialism or of colonial expansion. The fortunes of war brought American power to your islands, playing the part of an expected and a welcome deliverer. You may be very sure that the American people have never entertained purpose of exploiting the Filipino people or their country. There have indeed been different opinions among our own people as to the precisely proper relationship with the Filipinos. There are some among your people who believe that immediate independence of the Philippines would be best for both.

ARGUMENTS UNWORTHY

I should be less than candid with you however if I did not say that in my judgment the strongest argument that has been used in the United States in support of immediate independence for the Philippines is not the argument that it would benefit the Filipinos but that it would advantage the United States. Feeling as I do and as I am convinced the great majority of Americans do regarding our obligations to the Filipino people I have to say that I regard such arguments as unworthy. The American people will not evade or repudiate the resonsibility they have assumed in this matter.

The American government is convinced that it has the overwhelming support of the American nation in its conviction that present independence would be a misfortune and might easily become a disaster to the Filipino people. Upon that conviction the policy of this government is based.

Thus far I have suggested only some of the reasons related to international concerns, which seem to me to urge strongly against independence at this time. I wish now to review for a moment some domestic concerns of the Philippine Islands which seem also to argue against present independence.

GOVERNMENT LIBERAL

The American government has been most liberal in opening to the Filipino people the opportunities of the largest practicable participation in and control of their own administration. It has been a matter of pride and satisfaction to us, as I am sure it must also have been to your people, that this attitude has met with so fine a response. In education, in cultural advancement, in political conceptions and institutional development the Filipino people have demonstrated a capacity which cannot but justify high hopes for their future. But it would be idle and insincere to suggest that they have yet proved their possession of the completely developed political capacity which is necessary to a minor nation assuming the full responsibility of maintaining itself in the family of nations.

I am frankly convinced that the very mission upon which you have addressed me is itself an evidence that something is yet lacking in development of political conciousness and capability.

One who examines the grounds on which are based the protest against the present situation is forced to conclude that there has not been thus far a full realization of the fundamental ideals of democratic republican government.

There have been evidences of a certain inability or unwillingness to recognize that this type of governmental organization rests upon the theory of complete separation of the legislative, executive and judicial functions. There have been many evidences of disposition to extend the functions of the legislature and thereby to curtail the proper authority of the executive. It has been charged that the present governor general has in some matters exceeded his proper authority but an examination of the facts seems rather to support the charge that the legislative branch of the insular government has been the real offender through seeking to extend its own authority into some areas of what should properly be the executive realm.

The government of the United States has full confidence in the ability, good intention, fairness and sincerity of the present governor general. It is convinced that he has intended to act and has acted within the scope of his proper and constitutional authority. Thus convinced, it is determined to sustain him and its purpose will be to encourage the broadest and most intelligent cooperation of the Filipino people in this policy.

Looking at the whole situation fairly and impartially one cannot but feel that if the Filipino people cannot cooperate in the support and encouragement of as good an administration as has been afforded under Governor General Wood, their failure will be rather a testimony of unpreparedness for the full obligations of citizenship than an evidence of patriotic eagerness to advance their country.

GOVERNOR WOOD UPHELD

I am convinced that Governor General Wood has at no time been other than a hard-working, painstaking and conscientious administrator. I have found no evidence that he had exceeded his proper authority or that he has acted with any other than the purpose of best serving the real interests of the Filipino people. Thus believing I feel that I am serving those same interests by saying frankly it is not possible to consider the extension of a larger measure of autonomy to the Filipino people until they shall have demonstrated a readiness and capacity to cooperate fully and effectively with the American

government and authorities. For such cooperation I earnestly appeal to every friend of the islands and their people.

I feel all confidence that in the measure in which it shall be extended the American government will be disposed to grant in increasing degree the aspirations of your people. Nothing could more regrettably affect the relations of the two peoples than that the Filipinos should commit themselves to a program calculated to inspire the fear that possibly the governmental concessions already made have been in any measure premature.

CAREFUL CONSIDERATION

In conclusion let me say that I have given careful and somewhat extended consideration to the representations you have laid before me. I have sought counsel of a large number of men whom I believed able to give the best advice, particularly I have had in mind always that the American nation could not entertain the purpose of holding any other people in a position of vassalage. In accepting the obligations which came to them with the sovereignty of the Philippine Islands the American people had only the wish to serve, advance and improve the condition of the Filipino people. That thought has been uppermost in every American determination concerning the islands. You may be sure that it will continue the dominating factor in the American consideration of the many problems which must inevitably grow out of such relationship as exists.

In any survey of the history of the islands in the last quarter century I think the conclusion inescapable that the Filipino people, not the people of the United States, have been the gainers. It is not possible to believe that the American people would wish otherwise to continue their responsibility in regard to the sovereignty and administration of the islands. It is not conceivable that they would desire, merely because they possessed the power, to continue exercising any measure of authority over a people who could better govern themselves on a basis of complete independence.

IF THE TIME COMES

If the time comes when it is apparent that independence would be better for the people of the Philippines from the point of view of both their domestic concerns and their status in the world and if when that time comes the Filipino people desire complete independence, it is not possible to doubt that the American government and people will gladly accord it.

Frankly it is not felt that that time has come.

It is felt that in the present state of world relationship the American government owes an obligation to continue extending a protecting arm to the people of these islands.

It is felt also that, quite aside from this consideration, there remains to be achieved by the Filipino people many greater advances on the road of education, culture, economic and political capacity before they should undertake the full responsibility for their administration. The American government will assuredly cooperate in every way to encourage and inspire the full measure of progress which still seems a necessary preliminary to independence.

Very truly yours,

(Sgd.) CALVIN COOLIDGE.

APPENDIX VII

EXTRACTS FROM

"THE ADMINISTRATION OF DEPENDENCIES"

BY PROF. ALPHEUS H. SNOW

Lecturer on Colonial Government, George Washington University; Member, Executive Committee, American Society on International Law.

PAGES 38-46

It will be advisable, in view of the important part which the word "dispose" plays in the clause of the Constitution of the United States which relates to the administration of dependencies, and in the Acts of Congress preceding the adoption of the Constitution, to ascertain at this point the exact meaning of that word.

The word "dispose" was the word commonly used in the public acts of the time to express the exercise of governmental power which was held under a condition that it should be exercised expertly and according to just principles, just as the word *disposer* was the most appropriate in the French language to express the same idea. Contemporary examples of this use are the following:

> For the handling, ordering and disposing of matters and affairs of greater weight and importance, and such as shall or may in any sort concern the weal public and general good of the said Company and Plantation, as, namely, the manner of government from time to time to be used, the ordering and disposing of the lands and possessions, and the settling or establishing of a trade there, or such like, there shall be held and kept every year . . . four Great and General Courts. (Charter of the Virginia Company of 1611.)
>
> The said Governor and Assistants shall apply themselves to take care for the best disposing and ordering of the general business and affairs of, for and concerning the said lands and premises hereby mentioned to be granted, and the plantation thereof and the government of the people there. (Charter of the Massachusetts Bay Company of 1629; also Charter of Rhode Island of 1663.)
>
> The Commissioners shall have power and authority to provide for, order and dispose all things which they shall from time to time, find most advantageous for the said Plantation . . . Always reserving to the said Commissioners power and authority for to dispose the general government of that Plantation, as it stands in relation to the rest of the Plantations in America, as they shall conceive, from time to time, most conducing to the general good of the said Plantation, the honor of his Majesty, and the service of the State. (Charter of Providence Plantation of 1644).
>
> The said General Assembly shall have full power and authority... to elect and constitute such officers as they shall think fit and requisite for the ordering, managing and disposing of the affairs of the said Governor and Company, and their successors . . . and to establish laws for the directing, ruling and disposing of all other matters and things, whereby our said people, inhabitants there, may be peaceably, civilly and religiously governed. (Charter of Connecticut of 1662.)

The word "dispose" was peculiarly appropriate to express this idea, whether it be considered from the standpoint of its derivation or its usage in general literature.

The first meaning of the word "dispose" is "to place apart," and—as placing things apart implies a purpose in so doing—to dispose objects, physical or mental, soon came to mean to place them apart for the purpose of setting them in some predetermined order or arrangement. In military science, it is proper and usual to speak of disposing troops, or disposing of troops, so as to put them in a certain order or arrangement. The same usage continues at the present time in the science of architecture, where the arrangement of different parts of a structure with reference to each other is spoken of as the "disposition" of the different parts.

Of "disposition" the *Century Dictionary* gives for the first meaning: "a setting in order; a disposing, placing, or arranging; arrange-

ment of parts; distribution": as, "the disposition of the infantry and cavalry of an army; the disposition of the trees in an orchard; the disposition of the several parts of an edifice or of figures in painting; the disposition of tones in a chord or parts in a score." As a very ancient example of this use, it quotes the follwing from Sir T. Wilson's *Essay on Rhetoric* (1553):

> Disposicion is a certain bestowing of things, and an apt declaring what is meete for every part, as tyme and place doe beste require.

Dr. Johnson, in his great dictionary, published in 1775, gives the following illustration of this meaning of "disposition" from Dryden (1680):

> Under this head of invention is placed the disposition of the work, to put all things in a beautiful order or harmony, that the whole may be of a piece.

From this meaning, of placing in a certain order or arrangement, the word "dispose" soon came to have the meaning "to regulate or govern in an orderly way; to order, control, direct, manage, command," as the new *Oxford Dictionary* informs us. This dictionary gives the following quotations as illustrating the meaning: From Trevisa (1308): "Angels have under theym the orders of men, and ordeyne and dyspose theym." From Savile (1581): "Otho disposed the affairs of the Empire." From Chapman (1618): "They were such great fools at that age that they could not themselves dispose a family." From Milton (1667): "Be it so, since hee Who now Sovran can dispose and bid what shall be right." From Hale (1677): "A regent principle, which may govern and dispose it as the soul of man doth the body."

One meaning of "disposition" given by the *Century Dictionary* is, "guidance and control; order; command; decree; as, the dispositions of the statute." It gives the following illustrations of this meaning: "I putte me in thy protecciouu, Dyane, and in thi disposicioun (Chaucer, 1390); "Who have received the law by the dispositition of angels" (Acts vii. 53); "Appoint (i.e., arraign) not heavenly disposition. father" (Milton, 1671)

Another meaning which the word "dispose" had, according to the *Oxford Dictionary*, was "to make arrangements: to determine or control the course of affairs or events; to ordain, appoint." Under this meaning is given the proverb, "Man proposes but God disposes," and also a quotation from Hall's *Chronicles* (1548): "To dispose for the nedes of the foresaid realme."

Other examples of the use of the word with this meaning are:

"There were in these quarters of the world, sixteen hundred years ago, certain speculative men, whose authority disposed the whole religion of those times?" (Hooker, 1595); and "Who hath disposed the whole world?" (Job. XXXIV. 13).

The *Oxford Dictionary* gives as one meaning of "disposal," "the act of disposing things, or parts of a thing, according to some method, good or bad, or the state or manner of being so disposed; arrangement; order; distribution."

In the *Century Dictionary* one meaning given of "disposal," is, "regulation, ordering, or arrangement, by right of power or possession: dispensation." An example which it gives of this meaning is the sentence, "Tax not divide disposal" (from Milton, 1671). The same dictionary also gives, as another meaning of "disposal," "power or right to dispose of or control," and gives as an example: "Are not the blessings both of this world and the next in His disposal? (Bishop Atterbury, 1720).

The word "disposer" was recognized in English and American literature up to the beginning of the nineteenth century as the one which was peculiarly appropriate to characterize the Deity, thus being treated as a word most appropriate to signify the widest and most complete power, exercised for the ends of order and justice. The *Century Dictionary* gives the following examples of this use:

"Forget not those virtues which the great Disposer bids thee to entertain" (Sir Thomas Browne, 1646); "Leave events to their Disposer" (Boyle, 1715).

Dr. Johnson, in his dictionary, as an example of this meaning of the word "disposer," gives: "All the reason of mankind cannot suggest any solid ground of satisfaction, but in making that God our friend, who is the absolute Disposer of all things." Other examples of this same sense of the word "disposer" applied to human beings, given by *Johnson's Dictionary* and the *Century Dictionary*, are:

"Would I had been disposer of thy stars, Thou shouldst have had thy wish and died in wars" (Dryden, 1665); "The Gods appoint him The absolute disposer of the earth, That has the sharpest sword" (Fletcher, 1620).

Other examples of the same meaning in the derivatives "disposure" and "dispositive" are:

"In His disposure is the orb of earth, The throne of kings, and all of human birth," and: "They quietly surrendered both it and themselves to his disposure" (Sandys, 1630); "Whilst they murmur against the present disposure of things, they do tacity desire in them a difformity from the primitive rule and the idea of that mind that formed all things best" (Sir Thomas Browne, 1646); Without His eye and hand, His dispositive wisdom and power, the whole frame would disband and fall into confusion and ruin" (Bates, 1685).

Grotius, in his *Peace and War* (book i., chapter iii., sec. 21) says of the distinction between the words "to dispose" and "to command" (the translation being that of Rev. William Evats, made in 1682):

> Isocrates, commending that excellent conduct of the ancient Athenians, in the managing of their social wars, saith, that they took care for all, without intrenching upon the liberty of any. It is well worth our observation that what the Latins express by the word *imperare*, to command, the Greeks more modesty express by the word *rabbeiv*, to dispose or set in order.

The expression "dispose of" was used interchangeably with the verb "dispose." In this sense, as in the former, it was frequently coupled with the word "order." An example of the use of the expression "dispose of" in this sense is found in the preamble of the Fundamental Orders of Connecticut of 1638, which read:

> Forasmuch as it hath pleased the Almighty God by the wise disposition of his divine Providence so to order and dispose of things that we, the inhabitants and residents of Windsor, Hartford and Wethersfield are now cohabiting and dwelling in and upon the River of Connecticut and the lands thereunto adjoining; and well knowing, where a people are gathered together, the word of God requires that to maintain the peace and union of such a people there should be an orderly and decent government established according to God, to order and dispose of the affairs of the people, etc.

Also in the Charter of Rhode Island of 1663:

> The said Governor and Company shall have full power and authority . . . to direct, rule, order and dispose of all other matters and things, as to them shall seem meet, whereby our said people and inhabitants may be religiously, peaceably and civilly governed.

Another example of this usage occurs in the Charter of the Province of Massachussetts Bay of 1691:

We do give and grant the said General Court or Assembly shall have full power and authority . . . to dispose of matters and things whereby our subjects, inhabitants of said Province, may be peaceably and civilly governed, protected and defended.

The preposition "of", in the expression "dispose of", evidently has the meaning of specifying the particular object of the act of disposing. The *Oxford Dictionary* calls attention to the fact that instances are found where the prepositions "upon" and "on" and also "with" are used with the word "dispose." To "dispose upon" something, or to "dispose on" something, would plainly mean, if used today, to adjudicate upon something for the purpose of determining the proper and orderly arrangement in regard to it and making the arrangement so determined upon. To "dispose of" something evidently has the same meaning. The *Oxford Dictionary* gives as the first meaning of the expression "dispose of," "to make a disposition or arrangement of; to do what one will with; to order, control, regulate, manage"; and, as an illustration of this meaning, quotes from Shakespeare, *Henry V.*, iii., 3, 49; "Enter our gates; dispose of us and ours; For we no longer are defensible."

The *Century Dictionary* defines "dispose of" as meaning "to exercise control over; direct the disposal or course of: as, 'They have full power to dispose of their possessions.'" As examples of this meaning it gives the following:

"The lot is cast into the lap; but the whole disposing thereof is of the Lord" (*Prov.* xvi. 33); "This brow was fashion'd To wear a comely wreath, and your grave judgment Given to dispose of monarchies" (Fletcher, 1622); "A planet dispose of any other which may be found in its essential dignities" (W. Lilly, 1670).

In the original form of the word, "dispose," it was used both transitively and intransitively and the word "of" when used with it plainly meant "upon, respecting, concerning." This is evident from the two quotations from Chaucer, given by the *Century Dictionary*: "Syn God seth every thing, out of doutance, And them disponeth through his ordinance" and "Of my moble (i. e., belongings) thou dispose Right as the semeth best is for to done."

The conception of the King as the "disposer" of the affairs of the dependencies was the conception of him as the Imperial Judge and Ruler, under a condition to exercise his powers by expert advice accordingly to just principles, and not beyond what the necessity, in each case, required.

PAGE 408

The *Grand Vocabulaire* gives as the original meaning of the word *ordonnance* the following: "(Latin) 'dispositio.' Disposition, arrangement (*disposition, arrangement*)." It gives as the original meaning of the verb ordonner, "(Latin) 'disponere.' To arrange, dispose, set in order (*ranger, disposer, mettre en ordre*)."

PAGE 409

The adoption of the expression "dispose of" to describe the power of the Union over its dependencies seems to have come about in the following manner:

On May 21, 1779, Maryland, which was the only State which at that time had not signed the Articles of Confederation, filed in Congress a Declaration, together with Instructions to its delegates in

Congress, adopted by its Legislature. In the Instructions the Legislature said:

> We are convinced, policy and justice that a country unsettled at the commencement of this war, claimed by the British Crown, and ceded to it by the Treaty of Paris, if wrested from the common enemy by the blood and treasure of the thirteen States, should be considered as a common property, subject to be parcelled out by Congress into free, convenient and independent Governments, in such manner and at such times as the wisdom of that Assembly shall hereafter direct.
>
> Thus convinced, we should betray the trust reposed in us by our constituents, were we to authorize you to ratify on their behalf the Confederations, *unless it be further explained.* We . . . do instruct you not to agree to the Confederation, unless an Article or Articles be added in conformity with our Declaration. Should we succeed in obtaining such Article or Articles, then you are fully empowered to accede to the Confederation.

PAGE 410

These two statements made by the Legislature of Maryland regarding the explanatory Article which Maryland wished to have added to the Articles of Confederation evidently cover the same ground. It seems clear, therefore, that the Legislature of Maryland considered that an Article which should provide that "the United States in Congress assembled" should "dispose of" the lands in the Western region "for the common benefit of all the States," would include a power in "the United States in Congress assembled" to "parcel out" that region "into free, convenient, and independent Governments in such manner and at such times as the wisdom of that Assembly shall hereafter direct."

The fourth Article (1) provided that the Northwest Territory should "forever remain a part of this Confederacy the United States of America, subject to the Articles of Confederation and to such alterations therein as shall be constitutionally made, and to all the Acts and Ordinances of the United States conformable thereto." To "forever remain a part of this Confederacy" meant that they were to be either "parcel of the Realm in tenure" or "parcel of the body of the Realm," to use the old distinction used in *Calvin's Case*, to which reference is evidently in the position of dependencies of the Union or of States admitted into the Union by representation in its Central Government, and were not to have the right of secession either from the Federal Empire or from the Federal State. This was unnecessary, since the power of the Confederation was recognized as being a power of disposition. Still it was an important matter and proper to be made the subject of an express contract.

(1) Articles of Compact, Continental Congress, 1774.

Congress Lacks Power To Alienate Territory

PAGE 470

It has been supposed that the power "to dispose of" the dependencies includes the power to sell the rights of the American Union over them to a foreign State. There is, however, contemporaneous evidence of the highest character against this construction. In the Convention of the State of Virginia which met on June 2, 1788, to consider the question of the ratification of the Federal Constitution, an amendment was proposed which provided as follows:

> No treaty ceding, contracting, restraining or suspending the territorial rights or claims of the United States, or any of them . . . shall be made, but in cases of the most urgent and extreme necessity, nor shall any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both Houses respectively.

Governor Edmund Randolph, who, as already noticed, had headed the Virginia delegation in the Convention and presented the Virginia resolutions, opposed this proposed amendment, saying:

> Of all the amendments, this is the most destructive, which requires the consent of three-fourths of both Houses to treaties ceding or restraining territorial rights . . . *There is no power in the Constitution to cede any part of the territories of the United States.* But this amendment admits, in the fullest latitude, that Congress have a right to dismember the Empire.